

PLANNING COMMITTEE AGENDA



Wednesday, 4th July 2007

at 10.00 a.m.

in

**West View Community Centre,
Miers Avenue, Hartlepool**

MEMBERS OF PLANNING COMMITTEE:

Councillors Akers-Belcher, Allison, Brash, R Cook, S Cook, Flintoff, Kaiser, Laffey, G Lilley, J Marshall, Morris, Payne, Richardson, Simmons, Worthy and Wright

1. APOLOGIES FOR ABSENCE

2. TO RECEIVE ANY DECLARATIONS OF INTEREST BY MEMBERS

3. MINUTES

3.1 To confirm the minutes of the meeting held on 6th June 2007 (*to follow*)

4. ITEMS REQUIRING DECISION

4.1 Planning Applications – *Assistant Director (Planning and Economic Development)*

1. H/2007/0333 Wisbech
2. H/2007/0352 Kingsley Schopol, Taybrooke Avenue
3. H/2007/0382 24 Brandon Close
4. H/2007/0163 2 The Front
5. H/2007/0250 195 Brierton Lane
6. H/2007/0335 Marco Polo
7. H/2007/0194 Lower Piercy Farm
8. H/2007/0423 Seaview House
9. H/2007/0404 56 Loyalty Road

4.2 Update on Current Complaints – *Assistant Director (Planning and Economic Development)*

5. ANY OTHER ITEMS WHICH THE CHAIRMAN CONSIDERS ARE URGENT

6. LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985

EXEMPT ITEMS

Under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information) Act 1985

7. ITEMS REQUIRING DECISION

7.1 Complaint Files to be closed – *Assistant Director (Planning and Economic Development)* (Para 6)

7.2 Seaton Meadows – *Assistant Director (Planning and Economic Development)* (Para 5)

8. FOR INFORMATION

Site Visits – Any site visits requested by the Committee at this meeting will take place immediately prior to the next Planning Committee meeting on the morning of Wednesday 1st August 2007 at 9.00am.

Next Scheduled Meeting – Wednesday 1st August 2007

PLANNING COMMITTEE

MINUTES AND DECISION RECORD

31 May 2007

The meeting commenced at 10.00 a.m. in the Avondale Centre, Hartlepool

Present:

Councillor R W Cook (In the Chair)

Councillors: Akers-Belcher, Allison, Brash, S Cook, Flintoff, Kaiser, Laffey, J Marshall and Payne.

Also Present in accordance with Council Procedure Rule 4.2 (ii): -
Councillor Fleet as substitute for Councillor Worthy,
Councillor Griffin as substitute for Councillor Simmons,
Councillor Hall as substitute for Councillor Richardson,
Councillor A Lilley as substitute for Councillor G Lilley,
Councillor Young as substitute for Councillor Dr Morris.

Officers: Tony Brown, Chief Solicitor
Stuart Green, Assistant Director (Planning and Economic Development)
Richard Teece, Development Control Manager
Roy Merrett, Principal Planning Officer
David Cosgrove, Principal Democratic Services Officer

Also Present:
Mr James Findlay, Counsel,
Mrs Mary Holt, Scott Wilson Consultants
Mr Neil Stephenson, Scott Wilson Consultants

1. Apologies for Absence

Councillors G Lilley, Dr Morris, Richardson, Simmons and Worthy.

2. Declarations of interest by members

The Chief Solicitor advised Members on their responsibilities in relation to the declaration of interests. It was stressed to members that the purpose of the report that they were to consider was not to reconsider the planning application that had already been determined by the Committee. Following this advice, Councillor Young declared a personal but non-prejudicial interest as the Ward Councillor for Seaton.

3. Local Government (Access to Information) Act 1985

Under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information)(Variation) Order 2006

Minute No. 4 “H/2005/5040/5041 and 5042 – ABLE UK LTD TERRC Facility, Tees Road, Graythorp, Hartlepool – Developments 1, 2 (Option 1) And 3 (Option 2)” Para 5, namely, information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

4. H/2005/5040/5041 and 5042 – ABLE UK LTD TERRC Facility, Tees Road, Graythorp, Hartlepool – Developments 1, 2 (Option 1) And 3 (Option 2) *(Assistant Director (Planning and Economic Development) and Chief Solicitor)*

The considerations of the Committee are set out in the exempt section of the minutes.

Decision

That the meeting stand adjourned until 10.00am on Thursday 7 June 2007 to allow time for Scott Wilson to undertake their further investigations and report initially to the Chief Solicitor.

Thursday 7 June 2007

The meeting commenced at 10.00 a.m. in the Owton Manor
Community Centre, Hartlepool

Upon being reconvened the following were present: -

Councillor R W Cook (In the Chair)

Councillors: Brash, S Cook, Flintoff, Kaiser and Laffey.

Also Present in accordance with Council Procedure Rule 4.2 (ii): -

Councillor Fleet as substitute for Councillor Worthy,
Councillor Griffin as substitute for Councillor Simmons,
Councillor Hall as substitute for Councillor Richardson,
Councillor A Lilley as substitute for Councillor G Lilley,
Councillor Young as substitute for Councillor Dr Morris.

Officers: Tony Brown, Chief Solicitor
 Stuart Green, Assistant Director (Planning and Economic Development)
 Richard Teece, Development Control Manager
 Roy Merrett, Principal Planning Officer
 Alistair Rae, Public Relations Officer
 David Cosgrove, Principal Democratic Services Officer

Also Present:

Mrs Mary Holt, Scott Wilson Consultants
 Mr Neil Stephenson, Scott Wilson Consultants

5. Apologies for Absence

Councillors Akers-Belcher, Allison, G Lilley, J Marshall, Payne, Dr Morris, Richardson, Simmons and Worthy.

6. Local Government (Access to Information) Act 1985

Under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information)(Variation) Order 2006

Minute No. 7 “H/2005/5040/5041 and 5042 – ABLE UK LTD TERRC Facility, Tees Road, Graythorp, Hartlepool – Developments 1, 2 (Option 1) And 3 (Option 2)” Para 5, namely, information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

7. H/2005/5040/5041 and 5042 – ABLE UK LTD TERRC Facility, Tees Road, Graythorp, Hartlepool – Developments 1, 2 (Option 1) And 3 (Option 2) *(Assistant Director (Planning and Economic Development) and Chief Solicitor)*

The further considerations of the Committee are set out in the exempt section of the minutes.

Decision

1. That a sub committee of the Planning Committee be established, called the Planning (Able UK) Sub Committee, comprising Councillors R W Cook (Chair), Brash, S Cook, Flintoff and Laffey.
2. That the Planning (Able UK) Sub Committee be delegated authority to conclude the discussions in relation to the Council's Statement of Case for the Able UK Planning Inquiry.
3. The Members acting as substitutes at this meeting of the Planning Committee be invited to act as observers at the Sub Committee.

CHAIRMAN

PLANNING COMMITTEE

MINUTES AND DECISION RECORD

6th June 2007

The meeting commenced at 10.00am
in West View Community Centre, Hartlepool

Present:

Councillor R W Cook (In the Chair)

Councillors Alison, Brash, R W Cook, S Cook, Flintoff, Kaiser, Laffey,
Dr Morris, Richardson and Simmons.

Also present: In accordance with Council Procedure Rule 4.2 (ii);
Councillor A E Lilley as substitute for Councillor G Lilley,
Councillor Shaw as substitute for Councillor Akers-Belcher,
Councillor Fleet as substitute for Councillor Worthy.

Officers: Tony Brown, Chief Solicitor
Richard Teece, Development Control Manager
Christine Pipe, Senior Planning Officer
Gill Scanlon, Planning Technician
Adrian Hurst, Principal Environmental Health Officer
David Cosgrove, Principal Democratic Services Officer

1. Apologies for Absence

Councillors Akers-Belcher, G Lilley, J Marshall, Payne, Worthy and Wright

2. Declarations of interest by members

None.

3. Confirmation of the minutes of the meeting held on 16th May 2007.

Confirmed.

4. **Planning Applications** – Assistant Director (Planning and Economic Development)

The following planning applications were submitted for the Committee's determinations and decisions are indicated as follows:

H/2007/0298

Applicant: Mr J W Haygarth

Agent: The Design Gap, 1 Scarborough Street,
HARTLEPOOL

Date received: 05/04/2007

Development: Erection of 11 apartments with associated road works and landscaping

Location: FORMER FILLING STATION NEXT TO
TRAVELLERS REST STOCKTON ROAD
HARTLEPOOL

Representations: Mr D Hopkins (applicant's representative) and Mr Thomas (objector) were present at the meeting and addressed the Committee.

Decision: **Planning Permission Approved**

CONDITIONS AND REASONS

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid
2. The development hereby permitted shall be carried out in accordance with the plans and details received by the Local Planning Authority on 15 May 2007, unless otherwise agreed in writing by the Local Planning Authority.
For the avoidance of doubt
3. Before the development hereby approved is commenced, the building shall be pegged out on site and its exact location agreed in writing by the Local Planning Authority.
In the interests of the amenities of the occupants of neighbouring properties.
4. Notwithstanding the submitted details before the development is brought into use car parking shall be provided in accordance with the final details to be first agreed in writing by the Local Planning Authority. Thereafter the approved scheme shall be retained for its intended purpose at all times during the lifetime of the development.

- In the interests of highway safety.
5. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.
In the interests of visual amenity.
6. Details of all walls, fences and other means of boundary enclosure shall be submitted to and approved by the Local Planning Authority before the development hereby approved is commenced.
In the interests of visual amenity.
7. The development hereby permitted shall not be commenced until: a) A desk-top study is carried out to identify and evaluate all potential sources of contamination and the impacts on land and/or controlled waters, relevant to the site. The desk-top study shall establish a 'conceptual site model' and identify all plausible pollutant linkages. Furthermore, the assessment shall set objectives for intrusive site investigation works/ Quantitative Risk Assessment (or state if none required). Two copies of the study shall be submitted to and approved in writing by the Local Planning Authority. If identified as being required following the completion of the desk-top study, b) The application site has been subjected to a detailed scheme for the investigation and recording of contamination, and remediation objectives have been determined through risk assessment, and agreed in writing with the Local Planning Authority, c) Detailed proposals for the removal, containment or otherwise rendering harmless of any contamination (the 'Reclamation Method Statement') have been submitted to and approved in writing by the Local Planning Authority, d) The works specified in the Reclamation Method Statement have been completed in accordance with the approved scheme, e) If during reclamation or redevelopment works any contamination is identified that has not been considered in the Reclamation Method Statement, then remediation proposals for this material should be agreed with the Local Planning Authority.
To ensure that any site contamination is addressed.
8. A detailed scheme of landscaping and tree and shrub planting shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved is commenced. The scheme must specify sizes, types and species, indicate the proposed layout and surfacing of all open space areas, include a programme of the works to be undertaken, and be implemented in accordance with the approved details and programme of works.
In the interests of visual amenity.
9. All planting, seeding or turfing comprised in the approved details of landscaping shall be carried out in the first planting season following the occupation of the building(s) or completion of the development, whichever is the sooner. Any trees plants or shrubs which within a period of 5 years from the completion of the development die, are removed or become seriously damaged or diseased shall be replaced in the next planting season with others of the same size and species, unless the Local Planning Authority gives written consent to any variation.
In the interests of visual amenity.

10. Unless otherwise agreed in writing by the Local Planning Authority before the development is brought into use, Department of Transport and Traffic 606 and 608 signs shall be erected on the central island opposite the exit onto Stockton Road in position(s) to be agreed in writing with the Local Planning Authority. Thereafter the signs shall be retained during the lifetime of the development.
In the interests of highway safety.
11. Unless otherwise agreed in writing by the Local Planning Authority all bedroom windows shall consist of a minimum 6-16-4mm double glazed units fitted with acoustic trickle vents to ensure that internal noise levels do not exceed 35dBLAeq.
To ensure that the building is adequately sound proofed in the interests of the amenity of future occupants.

The Committee considered representations in relation to this matter.

Number: H/2006/0846

Applicant: MR LEE DEXTER, 5-7 THE FRONT, HARTLEPOOL

Agent: SJR Architects & Interior Designers Mr David Johnson
Suite 101 The Innovation Centre Venture Court
Queens Meadow Business Park Hartlepool

Date received: 20/11/2006

Development: Alterations and erection of rear bedrooms extension
above existing bedroom accommodation
(AMENDED PLANS RECEIVED)

Location: MARINE HOTEL, THE FRONT, HARTLEPOOL

Representations: Mr D Johnson (applicant's representative) was present and addressed the Committee.

Decision: **Planning Permission Approved**

CONDITIONS AND REASONS

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid
2. The proposed obscure glazing as detailed in drawing no 3D shall be installed before the extension is first occupied and shall thereafter be retained for the lifetime of the development.
Protection of privacy.
3. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development

commences, samples of the desired materials being provided for this purpose.

In the interests of visual amenity.

4. Prior to the commencement of the development hereby approved, the building shall be provided with noise insulation measures, details of which shall be submitted for the consideration and approval of the Local Planning Authority. The scheme shall ensure adequate protection is afforded against the transmission of noise from the function room. The noise insulation scheme, as approved, shall be implemented in full and retained thereafter during the lifetime of the development.

In the interests of the amenities of the occupants of neighbouring properties.

5. Details of external lighting associated with the extension shall be submitted to an agreed with the Local Planning Authority prior to the development being brought into use.

In the interests of residential amenity

6. The development hereby approved shall be carried out in accordance with the amended plan(s) no(s) 03/D and 05/D received on 1 May 2007, unless otherwise agreed in writing by the Local Planning Authority

For the avoidance of doubt.

The Committee considered representations in relation to this matter.

Number:	H/2007/0226
Applicant:	Mr M Mathuru, Elwick Road, Hartlepool
Agent:	Stephenson Johnson & Riley, Suite 101, The Innovation Centre, Venture Court, Queens Meadow Business Park, HARTLEPOOL
Date received:	22/03/2007
Development:	Change of use and alterations to provide 4 self contained flats
Location:	32 ELDON GROVE HARTLEPOOL
Representations:	Mr D Johnson (applicant's representative) was present and addressed the Committee.
Decision:	Subject to no further material objections being received before the publicity consultation deadline Planning Permission Approved

CONDITIONS AND REASONS

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid.
2. Before the development is brought into use the approved car parking scheme shall be provided in accordance with the approved details.
Thereafter the scheme shall be retained for its intended purpose at all times during the lifetime of the development.
In the interests of highway safety.
3. Unless otherwise agreed with the Local Planning Authority, prior to the development hereby approved being brought into operation sound insulation measures shall be undertaken in accordance with a scheme to be previously agreed with the Local Planning Authority in order to protect residents of any adjoining premises against noise disturbance.
In the interests of the amenities of the occupants of neighbouring properties.
4. The development hereby approved shall be carried out in accordance with the amended plan(s) no(s) 04 Rev. C received on 29 May 2007, unless otherwise agreed in writing by the Local Planning Authority.
For the avoidance of doubt.
5. Details of noise attenuation measures in relation to the proposed car parking area at the rear of the property shall be submitted to and approved in writing by the Local Planning Authority before any of the flats hereby approved are occupied. Thereafter the measures or their equivalent shall be retained during the lifetime of the development.
In the interests of the amenities of the occupants of neighbouring properties.

The Committee considered representations in relation to this matter.

Number:	H/2007/0328
Applicant:	J D Wetherspoon PLC, Reeds Crescent, Watford
Agent:	Tuffin Ferraby Taylor, Strand House, 169 Richmond Road, Kingston Upon Thames
Date received:	01/05/2007
Development:	Installation of new canopy to rear of building
Location:	3 - 9 CHURCH SQUARE HARTLEPOOL
Representations:	Mr Taylor (applicant) was present at the meeting and addressed the Committee.

Decision: Subject to no objections being received before the publicity deadline Planning Permission Approved

CONDITIONS AND REASONS

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid
2. The development hereby approved shall be carried out in accordance with the plans and details submitted as amended by the letter from the agent dated 30th April 2007 confirming that the Jumbrellas shown on drawing no 14728-01 do not form part of the application and by the plan received under cover of the letter from the agent dated 24th May 2007 redefining the boundaries of the site in red, unless otherwise agreed in writing by the Local Planning Authority
For the avoidance of doubt
3. For the avoidance of doubt this planning approval relates only to the provision of the rear canopy attached to the existing building and does not related to the provision of Jumbrellas.
For the avoidance of doubt

Number: H/2007/0093

Applicant: Florian Valentin Ipate, CHURCH STREET, HARTLEPOOL

Agent: Brian Watson, 28a Church Street, HARTLEPOOL

Date received: 15/02/2007

Development: Alterations to front elevation of the property including installation of roller shutters, provision of new windows and additional glazing to ground floor frontage

Location: 57 CHURCH STREET HARTLEPOOL

Representations: Mrs A Mihalcea (applicant) was present at the meeting and addressed the Committee.

Decision: Members took the view that the scheme generally would result in a major improvement in the appearance of the building. Further while the roller shutters are not strictly in line with conservation principles they would not affect the integrity of the original shop front and the

difference in appearance between the building before and after their installation is little different. Therefore Planning Permission Approved

CONDITIONS AND REASONS

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid

Number: H/2006/0877

Applicant: Mr T Wilkinson

Agent: The Design Gap, 1 Scarborough Street
HARTLEPOOL

Date received: 18/12/2006

Development: Removal of condition 5 of planning approval H/FUL/0778/03 and condition 7 of planning approval H/2006/0493 to allow unrestricted use of function room and seating area

Location: 2 VICTORIA ROAD HARTLEPOOL

Representations: Mr T Wilkinson (applicant) was present at the meeting and addressed the Committee.

Decision: **Planning Permission Approved**

CONDITIONS AND REASONS

1. The permission shall relate to the removal of condition 5 of planning approval H/FUL/0778/03 and condition 7 of planning approval H/2006/0493 and all other planning conditions attached to those permissions shall still apply.
For the avoidance of doubt.

Number: H/2007/0265

Applicant: Mitchell & Butlers Retail Ltd

Agent: The JTS Partnership Number One The Drive Great Warley Brentwood

Date received: 24/04/2007

Development: Retention of 2 Jumbrellas on front forecourt

Location: THE WHITE HOUSE WOOLER ROAD
HARTLEPOOL

Decision: **A. Subject to no objections being received before the publicity deadline Planning Permission Approved**

CONDITIONS AND REASONS

1. The jumbrellas hereby approved shall be removed from the site and the land restored to its former condition on or before 30 June 2008 in accordance with a scheme of work to be submitted to and approved in writing by the Local Planning Authority unless approval has been obtained to an extension of this period.
To enable the Local Planning Authority to assess the impact if any of the jumbrellas especially in view of impending smoking byelaws.
- B. Members expressed concern about on street parking around the public house and asked Engineers to look at this and consider what action if any is necessary/appropriate to deal with any problems that may be arising.

The Committee considered representations in relation to this matter.

Number: H/2007/0244

Applicant: Mr M Ashton, Hillcrest Grove, Elwick Village, Hartlepool

Agent: Business Interiors Group, 73 Church Street, HARTLEPOOL

Date received: 28/03/2007

Development: Variation of the original approval (H/2006/0333) to provide licensed clubhouse to the caravan site

Location: ASHFIELD FARM DALTON PIERCY ROAD
HARTLEPOOL

Decision: **Deferred to enable the applicant and objector(s) to be able to present their cases to the Committee.**

Number: H/2007/0235

Applicant: Mr P Lamb, THE FENS, HARTLEPOOL

Agent: Smith & Graham, Mrs L M Robinson, Church Square Chambers, Church Square, Hartlepool

Date received: 29/03/2007

Development: Use of waste land as garden area

Location: 34 THE FENS, HARTLEPOOL

Decision: **Planning Permission Approved**

CONDITIONS AND REASONS

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid
2. A detailed scheme of landscaping and tree and shrub planting shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved is commenced. The scheme shall provide for hedging to the eastern and southern boundaries of the site. The scheme must specify sizes, types and species, indicate the proposed layout and surfacing of all open space areas, include a programme of the works to be undertaken, and be implemented in accordance with the approved details and programme of works.
In the interests of visual amenity.
3. Notwithstanding the provisions of Article 3 and Class A,B,C,D,E,F,G of Part 1 and Class A,B,C of Part 2 of the Schedule 2 of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), no buildings or structure(s) shall be erected or provided within the application site.
In the interests of visual amenity.

The Committee considered representations in relation to this matter.

5. Update on Current Complaints – *Assistant Director (Planning and Economic Development)*

Members' attention was drawn to eight on-going issues, which were briefly set out in the report.

Decision

That the report be noted.

6. Appeal by Mr K Smart, Site at 7 Hylton Road, Hartlepool – Assistant Director (Planning and Economic Development)

Members were informed that an appeal had been lodged against the refusal of planning permission for the demolition of the existing property and the erection of two detached houses, one with associated garage at 7 Hylton Road (H/2006/0891). The appeal was to be decided by the hearing procedure and authority was therefore requested to contest the appeal.

Decision

That the Assistant Director (Planning and Economic Development) be authorised to contest the appeal.

7. Any Other Items the Chairman Considers are Urgent

The Chairman ruled that the following item should be considered by the Committee as a matter of urgency in accordance with the provisions of Section 100(B)(4)(b) of the Local Government Act 1972 in order that the matters could be dealt with without delay.

8. Information Updates for Members

(i) Seating Meadows Inquiry

The Development Control Manager indicated that he had discussed with the Chairman the need for an additional meeting to inform Members of recent legal advices received in relation to the Inquiry. Members would be informed of the date of the meeting in the near future.

(ii) Planning Scheme of Delegation

The Development Control Manager highlighted that the scheme of delegation relating to planning matters meant that around 90% of all planning applications were dealt with and agreed by officers. The remaining applications that came to Members were on the basis that they were; outside the local plan policies and objectives, or three or more objections had been received, or the application had been referred by a Councillor from the weekly planning applications list. In relation to referrals by Councillors, these could only be done if there was a planning reason for the referral.

The Development Control Manager indicated that there were applications that may not automatically trigger referral to the Committee but where officers still had concerns. There may have been less than three objections or there may be other reasons for concern and on these applications the Chair was consulted on the application before a final decision was made.

(iii) Training for Members

Members were reminded of the training day scheduled for 3 July 2007. The Chair encouraged all Members to attend the training that would be of great value to both Committee Members and those who served as substitute members. The Chair indicated that it was his view that training for Planning Committee Members should be on the same basis as that for Licensing Committee Members which was compulsory. Members highlighted that in order for all Members to attend training, additional events needed to be organised outside of normal office hours to allow all Members the opportunity to attend.

Decision

That the report be noted.

CHAIRMAN

PLANNING (ABLE UK) SUB COMMITTEE

MINUTES AND DECISION RECORD

7 June 2007

The meeting commenced at 10.35 a.m. in the Owton Manor
Community Centre, Hartlepool

Present:

Councillor R W Cook (In the Chair)

Councillors: Brash, S Cook, Flintoff, and Laffey.

Also Present: Councillors Fleet, Griffin, Hall, A Lilley and Young.

Officers: Tony Brown, Chief Solicitor
Stuart Green, Assistant Director (Planning and Economic
Development)
Richard Teece, Development Control Manager
Roy Merrett, Principal Planning Officer
Alistair Rae, Public Relations Officer
David Cosgrove, Principal Democratic Services Officer

Also Present:

Mrs Mary Holt, Scott-Wilson Consultants
Mr Neil Stephenson, Scott-Wilson Consultants

The Chief Solicitor indicated that the necessity for the Council to submit by 12 June 2007 a statement of case in the appeal proceedings for the purposes of which the sub-committee had been established, established a degree of urgency that justified the holding of the meeting without the notice normally required by the Council's Constitution. Members agreed to proceed on that basis.

1. Apologies for Absence

None.

2. Declarations of interest by members

None.

3. Local Government (Access to Information) Act 1985

Under Section 100(A)(4) of the Local Government Act 1972, the press and public be excluded from the meeting for the following items of business on the grounds that it involves the likely disclosure of exempt information as defined in the paragraphs referred to below of Part 1 of Schedule 12A of the Local Government Act 1972 as amended by the Local Government (Access to Information)(Variation) Order 2006

Minute No. 4 “H/2005/5040/5041 and 5042 – ABLE UK LTD TERRC Facility, Tees Road, Graythorp, Hartlepool – Developments 1, 2 (Option 1) And 3 (Option 2)” Para 5, namely, information in respect of which a claim to legal professional privilege could be maintained in legal proceedings.

4. H/2005/5040/5041 and 5042 – ABLE UK LTD TERRC Facility, Tees Road, Graythorp, Hartlepool – Developments 1, 2 (Option 1) And 3 (Option 2) *(Assistant Director (Planning and Economic Development) and Chief Solicitor)*

The considerations of the Sub Committee are set out in the exempt section of the minutes.

Decision

The decisions of the Sub Committee are set out in the exempt section of the minutes.

CHAIRMAN

No: 1
Number: H/2007/0333
Applicant: Mrs T Allen Barford Close Hartlepool TS25 2RQ
Agent: 16 Barford Close Hartlepool TS25 2RQ
Date valid: 02/05/2007
Development: Incorporation of public open space land into curtilages of properties for use as domestic gardens
Location: REAR OF 1 and 2 WISBECH CLOSE AND 16-22 EVENS BARFORD CLOSE HARTLEPOOL

The Application and Site

1.1 The application site is an area of public open space with footpath located on the South Fens estate.

1.2 The land, which runs north to south, is sandwiched between houses and bungalows in Wisbech Close/Brandon Close and Barford Close

1.3 The proposal involves the stopping up of the footpath and the incorporation of the land into the curtilages of private gardens by means of fencing. Apart from the footpath itself, the area of land is grassed with four mature sycamore trees. The footpath joins other footpaths both to the north and south.

1.4 A formal 'stopping up' order would have to be obtained from the Magistrates Court and is a separate issue.

1.5 The application represents a departure from the policies in the Hartlepool Local Plan.

Publicity

1.6 The application has been advertised by way of neighbour letters (9) and also by press notice and site notices (4).

1.7 14 letters/emails of objection have been received raising the following concerns:-

- a) Questions the validity and accuracy of applicants reasons for purchase.
- b) Will be unduly large and out of keeping in area.
- c) Problems with construction traffic.
- d) Will not stop the infrequent minor nuisance that happens.
- e) Not an area where people congregate.
- f) Only a few incidents over last 10 years.

- g) 'Short scattered leafy lanes' are one of the main features of the Fens Estate.
- h) Applicants want to increase gardens.
- i) Proposal will damage the attractive appearance of the area.
- j) Have not witnessed anti social behaviour in many years of use.
- k) Proposal will only benefit minority.
- l) Situation is not as bad as made out by some residents/intolerance of youth.
- m) 'Problems' will be moved elsewhere.
- n) Contrary to Council Policy.
- o) Evidence shows that neighbourhood policing has improved in the area.
- p) Services run through area.
- q) The report provided from P C Myers was retrospective.
- r) Not consulted.
- s) Better lighting/CCTV
- t) Those involved should be caught and prosecuted.
- u) Precedent

1.8 21 letters and emails (several from the same property) of support raising the following:

- a) Clear evidence put forward.
- b) Have sought help for years.
- c) Plenty of open space on the Fens.
- d) Anti social behaviour for year – bottles thrown into garden, noisy rowdy behaviour until late which has gradually got worse.
- e) Support now from Ward Councillors, Residents Association, Parish Council and Police.
- f) Improve quality of life.
- g) Other nearby footpaths to use instead.

1.9 67 emails of support – these either give a name only or names and addresses identifying a road rather than a specific property e.g. Spalding Road.

1.10 A letter of support has been submitted by the Fens Residents Association. Their comments echo those outlined above. In addition they point out that closures elsewhere have removed problems of anti social behaviour and that the design of the estate is such that it makes policing particularly difficult.

Copy letters I.

The period for publicity has expired.

Consultations

1.11 The following consultation replies have been received:

Head of Public Protection – No objections

Anti Social Behaviour Unit – Awaited

Property Services – Awaited

Neighbourhood Services – Awaited

Traffic & Transportation – Awaited

Police – Have met 2 residents who referred to problems over 20 years. A check on records shows no records of incidents for last five years. However over the last year there have been a small number of instances reported to the police by one of those residents. Closure would have a great impact on reducing problems at this location and would meet the criteria of Section 17 of the Crime and Disorder Act.

Greatham Parish Council – No objections subject to small amendment to south end of the scheme.

Planning Policy

1.12 The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

GEP1: States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, flood risk, trees, landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

GEP2: States that provision will be required to enable access for all (in particular for people with disabilities, the elderly and people with children) in new developments where there is public access, places of employment, public transport and car parking schemes and where practical in alterations to existing developments.

GEP3: States that in considering applications, regard will be given to the need for the design and layout to incorporate measures to reduce crime and the fear of crime.

GN6: Resists the loss of incidental open space, other than in the exceptional circumstances set out in the policy. Compensatory provision or enhancement of nearby space will be required where open space is to be developed.

Planning Considerations

1.13 The main issues to be considered in this case are as follows:-

- i) The relevance of policies within the Local Plan
- ii) Impact on the visual amenity of the estate
- iii) Impact on enjoyment of the footpath/open space
- iv) Significance of anti-social behaviour
- v) Precedent issues.

Policy Issues

1.14 Policy GN6 of the Hartlepool Local Plan states that:

“The loss of areas of incidental open space will be resisted except: i) it can be demonstrated that the area of open space is detrimental to the amenities of adjoining or nearby properties, and it is too small or difficult to maintain to a satisfactory standard, or
ii) a proposed development has special locational requirements and there is no other appropriate site in the vicinity.”

1.15 In this case, the applicant has provided a statement from PC David Myers and Anti-Social Behaviour Data from Cleveland Police as supporting evidence to justify the loss of open space and footpath.

1.16 Crime and the fear of crime are material planning considerations which must be taken into account in deciding this application and whether or not these outweigh the loss of the open space/footpath.

Visual Amenity Issues

1.17 The area of land (and footpath) would be fenced at both ends and shared between six properties (16, 18, 20 and 22 Barford Close and 1 and 2 Wisbech Close). Whilst 4 households would gain small rectangular parcels of land, 16 Barford Close would have a large triangle to the rear and 1 Wisbech Close would gain a large amount of land (inc. 4 trees) to the side of 4 Brandon Close.

1.18 The amount of new fencing required at the south end of the site would be only a few metres and should not therefore have a significant impact on the visual amenities of the area. However, at the north end, the new fence would cross the remaining open space diagonally. This fence could be up to 20m in length and would form a blank barrier where the remainder of the footpath ends. This would be visible from nearby houses and to pedestrians using the remaining footpaths in the area. The detailing of this boundary could however be subject to further consideration and could be conditioned.

1.19 There are a number of green footpath routes in the Fens Estate which are considered to add significant amenity value to the area.

1.20 Whilst this particular 'green link' has no outstanding features, the area appears to be a well maintained, grassy open space with four mature sycamore trees. At the time of the site visits (2), there were no obvious signs of misuse.

1.21 The four sycamore trees would be enclosed within the curtilage of 1 Wisbech Close. Should the application be approved, it may be necessary to protect these healthy trees by a Tree Preservation Order to prevent their loss.

1.22 The trees would still be visible from surrounding properties and from the north and south paths.

Enjoyment of footpath

1.23 The enjoyment of a footpath is influenced by the visual quality of its surroundings and how physically accommodating the route is. Crime or the fear of crime may also influence the choice of a route whether for a stroll or as a means of access.

1.24 If this path is to be closed, access between Barford Close, Wisbech Close and Brandon Close would still be available by 2 alternative routes to the north and south.

Anti social behaviour issues

1.25 As previously mentioned, crime and the fear of crime is a material planning consideration and in this particular case appears to be the main point of contention.

1.26 Evidence (police officers report and Cleveland Police data) has been provided by the applicant in order to demonstrate that the anti-social behaviour in the area should necessitate and justify the closure of the path.

1.27 Whilst the Police Officer states that he has dealt with numerous crimes and reports at this path, no statistics or figures have been provided.

1.28 The other information is data collected between April 2004 and January 2007 when 9 incidents of anti-social behaviour and 7 crimes were reported (3 related to vehicles). A copy of this statement will be copied with the background papers.

1.29 The formal consultation with the police referred to in para.1 above suggests only limited problems in this area. The formal views of the Anti Social Behaviour Unit are awaited.

1.30 The comments from objectors and supporters are contradictory.

Precedent

1.31 Precedent is a proper and material consideration where it is likely that similar future proposals, in closely parallel situations, could not be resisted and the cumulative harm to planning principles or policies would result.

1.32 There are a number of similar pathways/routes throughout the Fens Estate which offer both access and leisure to the residents of the area. This is considered to be an important feature which should be maintained.

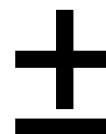
Conclusion

1.33 There are many small areas of amenity space within Hartlepool, often provided as part of housing developments, which have significant amenity value and contribute to the overall character of local areas.

1.34 Open space is essential to the enjoyment of residential areas both in visual and recreational terms and its loss should not be permitted without good reason. The evidence here about anti social behaviour is far from clear and further discussions are taking place with the Police and Anti Social Behaviour Unit. These will hopefully be provided in the form of an update.

RECOMMENDATION – UPDATE TO FOLLOW

Land at Wisbech Close



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 18/06/07
	SCALE 1:1250	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2007/0333	REV

No: 2.
Number: H/2007/0352
Applicant: Ms Penny Thompson Civic Centre Victoria Road
Hartlepool TS24 8AY
Agent: Hartlepool BC Building Consultancy Group Leadbitter
Buildings Stockton Street Hartlepool TS25 7NU
Date valid: 11/05/2007
Development: Erection of a single storey extension to accommodate a
childrens centre and provision of an extended car park
Location: KINGSLEY PRIMARY SCHOOL TAYBROOKE AVENUE
HARTLEPOOL

The Application and Site

2.1 The application site is Kingsley Primary School, which currently incorporates a nursery both fronting onto Taybrooke Avenue. The school is situated in a predominantly residential area.

2.2 The application seeks to erect a single storey extension to the school, which would accommodate a Children's Centre and the provision of an extended car park with alterations to the arrangement of the existing car park. It is proposed to widen the access to the car park, provide a turning area and incorporate visitor and disabled parking spaces, which the existing car park does not include.

2.3 The new extension is intended to provide extended services to the children and the community (for example providing a children's breakfast club) and is similar to others within Hartlepool and around the region. The internal layout would include a secure lobby, buggy parking area, offices and reception, interview room, multi-purpose room, kitchen, sensory room, soft play /meeting room, stores and toilet facilities. It is anticipated that this would lead to an increase in 6 staff based at the site.

Publicity

2.4 The application has been advertised by way of neighbour letters (33) and site notices (3). To date, there have been 4 letters of no objection, 2 letters of comments, which raised the following:

1. Concerns regarding additional vehicles and the careless parking and driving of parents, already picking up from the school, often blocking driveways.
2. Existing parking problems associated with the school and nursery.
3. An extension to the children's centre would cause more problems.
4. Could residents parking be introduced into Taybrooke Avenue?
5. Could a drop off zone be made for parents?
6. Could a one-way system be considered?

2.5 4 letters of objection have been received the concerns raised are:

1. Extra traffic on narrow road.
2. Existing problems of double parking, and parking on pavements.
3. More car parking spaces means more cars.
4. School should have policy on car sharing.
5. Stop global warming by reducing cars.
6. Staff car park could exit Kingsley Road as wider and already traffic calmed.
7. Noise and disturbance and fumes from extended car park.
8. Concerns in relation to new entrance to car park being closer to the objectors home.
9. Congestion problems
10. Currently inconvenience due to inconsiderate parking.
11. Extension for outside school care would compound an existing problem.
12. Increased building will have an adverse affect on local wildlife.
13. Think environment - grass replaced with concrete.
14. Public transport.

Copy letters A

The period for publicity has expired.

Consultations

2.6 The following consultation replies have been received:

Sport England – No comment

Head of Public Protection – As this car park will be predominantly in use during daytime hours and mainly during term time there are no objections subject to the provision of an acoustic fence and landscaping to end of the site between the car park and Staindale Place in order to provide some protection for the residents.
Traffic and Transportation – The proposed scheme would help to reduce on-street parking in the area, which would benefit the residents. No major highway implications.

Children's Services – No response however they are the applicant

Planning Policy

2.7 The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

GEP1: States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, flood risk, trees,

landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

GEP2: States that provision will be required to enable access for all (in particular for people with disabilities, the elderly and people with children) in new developments where there is public access, places of employment, public transport and car parking schemes and where practical in alterations to existing developments.

GEP3: States that in considering applications, regard will be given to the need for the design and layout to incorporate measures to reduce crime and the fear of crime.

PU9: States that community-based uses will be permitted in residential areas subject to amenity, accessibility, car parking and servicing considerations.

Planning Considerations

2.8 The main planning considerations in this instance are the appropriateness of the proposal in terms of the policies and proposals contained within the adopted Hartlepool Local Plan, the impact of the proposals upon neighbouring properties, the surrounding area in general and highway safety considerations.

2.9 The single storey extension to accommodate the Children's Centre is proposed to compliment the school/nursery in terms of design and facilities offered. The siting of the extension would join onto the newer part of the school and be accessed via a secure lobby fronting onto the car park. It is considered that the siting and design are appropriate for the area in general, and that there would be no significant detrimental affect on the neighbouring properties in terms of visual amenity.

2.10 The proposed improvements to the vehicular access comprise the widening of the existing access from 3.5metres to 5.5metres. The proposed car park would increase spaces within the school grounds from 24 staff spaces and 1 goods delivery space to 11 visitor spaces (including 2 disabled spaces), 40 staff spaces and a turning area for vehicles. The area to extend the car park into is currently grassed, however not used as playing field.

2.11 It is envisaged that the extended car park and improvements to the access and parking arrangements would reduce parking outside of the school. The school does operate a School Travel Plan with the objective of reducing the number of trips made by parents in cars and promotes the use of other modes of transport.

2.12 The car park is proposed to extend closer to Staindale Place, the Head of Public Protection acknowledges that the car park will be predominantly used during daytime hours and mainly during term time, therefore does not object to the proposal. Should the application be successful it is considered prudent to condition that an acoustic fence and landscaping to the end of the site between the car park and Staindale Place be implemented, this would provide a degree of protection to the existing residents in terms of any potential noise and disturbance. It is considered that this could be controlled via a planning condition.

2.13 The Head of Traffic and Transportation consider that the proposed scheme would reduce on-street parking, which would benefit the residents in the area. However there would be some increases in vehicular movements but these are not considered likely to be significant. Therefore there are no major highway implications as the highway network would still be able to cope with the extra traffic.

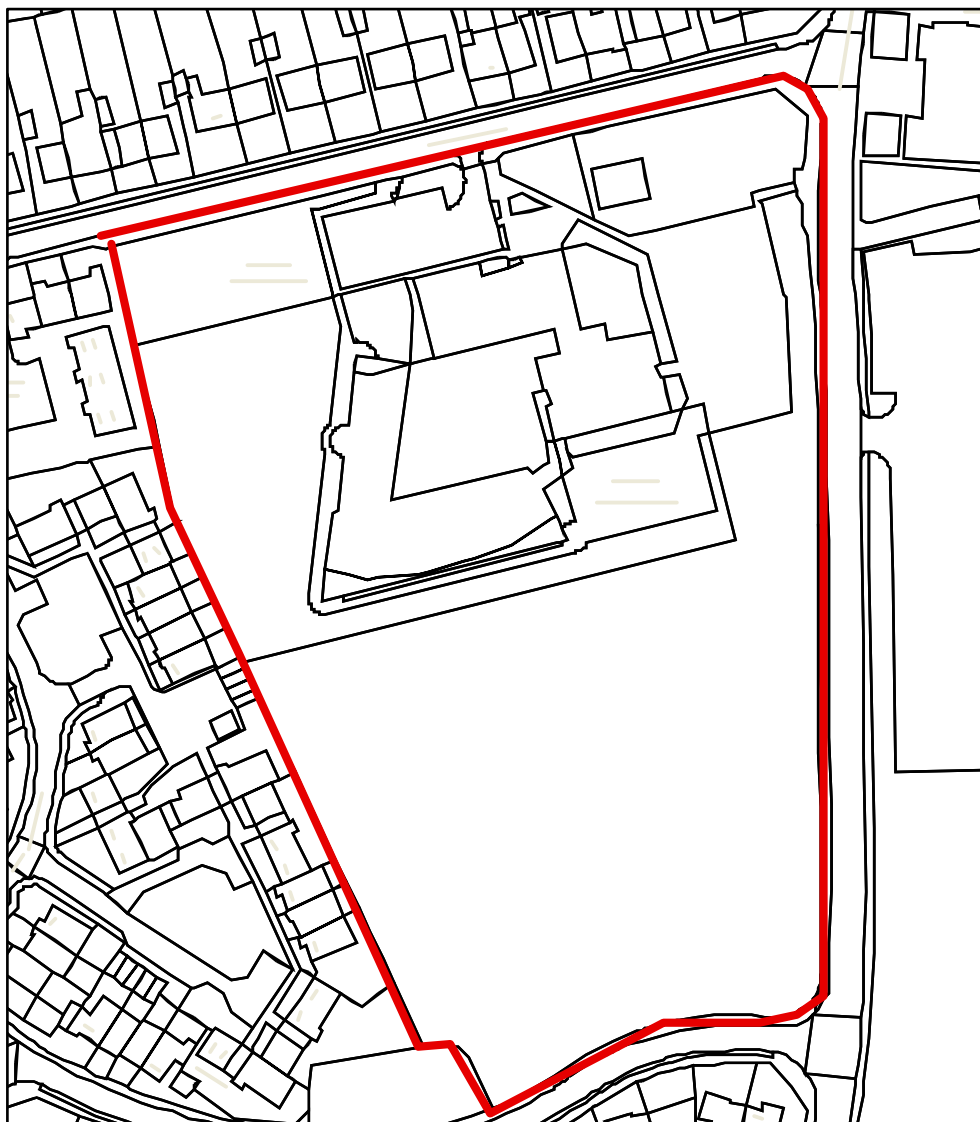
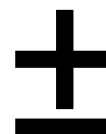
2.14 In terms of concerns raised regarding parking on Taybrooke Avenue, the Traffic and Transportation team have considered schemes suggested by an objector. In terms of a drop off zone it is considered that this would encourage parents to use their cars. A One Way System has the tendency to increase the speed of vehicles and it is not considered appropriate in this location. Residents parking could be considered if the residents requested this, however it is considered that this would be unlikely to stop parents dropping children off in Taybrooke Avenue.

Based on the above information approval is recommended.

RECOMMENDATION - APPROVE

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid
2. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.
In the interests of visual amenity.
3. Before the development is brought into use the approved car parking scheme shall be provided in accordance with the approved details. Thereafter the scheme shall be retained for its intended purpose at all times during the lifetime of the development.
In the interests of highway safety.
4. The development hereby permitted shall be carried out in accordance with the plans and details received by the Local Planning Authority on the 2nd, 11th and 29th May 2007, unless otherwise agreed in writing by the Local Planning Authority.
For the avoidance of doubt
5. A detailed scheme for an acoustic barrier and landscaping between the proposed car park and the boundary with Staindale Place and additional planting to Taybrooke Avenue shall be submitted to and approved in writing by the Local Planning Authority before the development hereby approved is brought into use. The scheme must include a programme of the works to be undertaken, and be implemented in accordance with the approved details and programme of works. Thereafter the approved scheme shall be retained for the lifetime of the car park unless otherwise agreed in writing with the Local Planning Authority.
In the interests of the amenities of the occupants of neighbouring properties.

Kingsley Primary School



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 18/06/07
	SCALE 1:1250	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2007/0352	REV

No: 3
Number: H/2007/0382
Applicant: Mr Mrs Jiggins BRANDON CLOSE HARTLEPOOL TS25 2LN
Agent: 24 BRANDON CLOSE HARTLEPOOL TS25 2LN
Date valid: 14/05/2007
Development: Erection of a rear sun room and toilet extension
Location: 24 BRANDON CLOSE HARTLEPOOL

The Application and Site

3.1 The applicant's property is located centrally within Brandon Close on the Fens Estate, Hartlepool. In the immediate area the site falls significantly from east to west. As such the neighbours at 25 are situated approximately 1m higher than no. 24 whereas the neighbour at 23 is situated 1m lower.

3.2 The application is for the erection a single storey rear sun room and toilet extension (2.5m (l) x 7.7m (w) x 2.4m (to eaves)). The extension will incorporate a lean to roof and will project to a maximum height of 3.4m. Velux roof lights will be installed above the proposed sun lounge area.

Publicity

3.3 The application has been advertised by way of neighbour letters (4). To date there have been 2 letters of objection and 1 letter of no objection. In addition a Member has requested that the Planning Committee determine this application.

3.4 The concerns raised are as follows:

- i) Concerns that if the drains are moved it may present problems with the drainage at the neighbouring properties;
- ii) Loss of light to the windows of the existing properties on either side of the extension;
- iii) Noise and disturbance during the construction of the extension;
- iv) Effect on the enjoyment of the rear garden area of the neighbour's property.

The period for publicity has now expired.

Consultations

3.5 **Greatham Parish Council** – No objections

Planning Policy

3.6 The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

GEP1: States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, flood risk, trees, landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

Hsg10: Sets out the criteria for the approval of alterations and extensions to residential properties and states that proposals not in accordance with guidelines will not be approved.

Planning Considerations

3.7 The application must be assessed firstly against the policies contained within the Hartlepool Local Plan 2006. The policies suggest that the key considerations with regards to this application are the effect on the privacy and amenity of the surrounding neighbours. Each of these issues are considered below.

Effect on privacy

3.8 With regards to the effect on privacy of the adjacent properties including the effect on the neighbours garden areas, it is noted that the applicant does not propose to insert windows in the side elevations of the rear extension. As such it is unlikely that the views out of the proposed rear elevation will infringe on the privacy of the neighbouring properties.

3.9 Views over the rear garden area of no. 25 will not be possible owing to the stagger in levels, whilst views over the garden area of no. 23 are unlikely to differ significantly enough to affect the overall privacy of the neighbour.

3.10 In conclusion the proposed extension will not significantly affect the privacy of the neighbours on either side of the applicant's property and therefore conforms to the relevant criteria in policies GEP1 and Hsg10 of the Hartlepool Local Plan.

Effect on amenity

3.11 Supplementary Note 4 which is appended to policy Hsg10 of the Hartlepool Local Plan suggests that single storey extensions which extend 2.5m or less along a shared boundary will normally be permitted. In this case an assessment of the differing levels must also be taken into consideration particularly with regards to the neighbour at no. 23 Brandon Close.

3.12 Nos. 23 and 24 Brandon Close are oriented so that their rear garden areas face north. Owing to the orientation of the sun (east to west) it must be accepted that the extension will cast a small diminishing shadow across part of the rear garden area of the neighbours at no. 23.

3.13 Whilst this small diminishing shadow will occur it must be highlighted that the north facing aspect of the neighbours rear garden means that in any event direct sunlight will not enter the windows in the rear elevation of the property. As such the proposed extension is unlikely to significantly alter the amount of light entering the ground floor windows to such an extent that warrants refusal of this application.

3.14 In conclusion and having regard to all matters, including the fact that 24 and 25 are staggered, it is considered that in terms the affect on amenity the proposals conform to the relevant criteria of policies GEP1, Hsg10 and Supplementary Note 4 of the Hartlepool Local Plan.

Other issues

3.15 In addition to the issues considered above it must be noted that at least one property along the same side of Brandon Close (no. 22) has a similar extension to that proposed here. Whilst the land falls slightly less towards the bottom of the hill a stagger is still evident. As such in terms of precedent it would be very difficult for the LPA to resist the proposals given the already approved applications in such close proximity to applicants address.

3.16 Concerns regarding the drainage provision and the effect of construction noise at antisocial hours have also been received and have been considered.

3.17 With regards to the drainage issue perceived or anticipated damage to the drainage system caused by the implementation of the planning application is not a material planning consideration. Should the applicant cause damage to the neighbours drainage system then other civil measures are in place to address this if required.

3.18 With regards to the hours of construction it is not usual practice for the LPA to impose conditions relating to hours of work on a project of this scale. Should the construction continue beyond reasonable working hours then the Council's Environmental Health Department would have powers to deal with this accordingly.

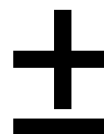
Conclusion

3.19 Based on a full assessment of the application and the surrounding area the application is recommended for approval subject to the conditions detailed below.

RECOMMENDATION – APPROVE

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid
2. The external materials used for this development shall match those of the existing building(s)
In the interests of visual amenity.

24 Brandon Close



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 18/06/07
	SCALE 1:1250	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2007/0382	REV

No: 4
Number: H/2007/0163
Applicant: Mrs J Harrington HARTLEPOOL
Agent: 2 THE FRONT SEATON CAREW HARTLEPOOL TS25
 1BS
Date valid: 08/03/2007
Development: Display of a non-illuminated plastic name sign
 (retrospective application)
Location: 2 THE FRONT SEATON CAREW HARTLEPOOL

The Application and Site

4.1 The application site is a florist shop at 2 The Front at Seaton Carew.

4.2 The property is close to the junction with Station Lane and is within the commercial part of the Seaton Carew Conservation Area.

4.3 To the north is a small Council owned part walled garden with flower beds and paved area which links into the Seaton Carew park.

4.4 The proposal seeks the retention of a plastic non-illuminated name sign approx 2.43m wide by 2.4m high mounted on the north facing elevation of 2 The Front. A photograph is appended with this report.

Publicity

4.5 The application has been advertised by way of neighbour letters (2) site notice and press advert. There have been 2 letters of objection on the following grounds:

- i) Size of sign not in keeping with conservation requirement
- ii) Sign is dominating on side of building
- iii) Orientation of sign facing residential properties
- iv) Should be front facing sign on these premises.

Copy letters B

The period for publicity has expired.

Consultations

4.6 The following consultation replies have been received:

Traffic and Transportation – there are no major highway implications.

Planning Policy

4.7 The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

Com6: States that the Borough Council will encourage environmental and other improvement and enhancement schemes in designated commercial improvement areas.

GEP1: States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, flood risk, trees, landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

GEP3: States that in considering applications, regard will be given to the need for the design and layout to incorporate measures to reduce crime and the fear of crime.

GEP8: States that advertisements will only be permitted where they do not detract from the amenity of the area and do not reduce highway safety or introduce visually obtrusive features.

HE1: States that development will only be approved where it can be demonstrated that the development will preserve or enhance the character or appearance of the Conservation Area and does not adversely affect amenity. Matters taken into account include the details of the development in relation to the character of the area, the retention of landscape and building features and the design of car parking provision. Full details should be submitted and regard had to adopted guidelines and village design statements as appropriate.

HE2: Encourages environmental improvements to enhance conservation areas.

Planning Considerations

4.8 The main planning considerations in this case are the appropriateness of the proposal in terms of the policies and proposals contained within the Hartlepool Local Plan and the effect upon the visual amenities of the area and the Seaton Carew Conservation Area.

4.9 This part of the Conservation Area has a mix of uses with shops, flats and a hotel in close proximity.

4.10 There is an existing approved single sided illuminated sign on the side elevation, close to the front of the shop and approx 1.5m above ground level. This sign does not form part of this current application.

4.11 The non-illuminated plastic name sign was funded through the Women's Development Fund in October 2006. The sign was erected without formal planning permission. Whilst the responsibility for establishing what consents are needed rested with the business, a breakdown in communication between the relevant

Council sections meant that appropriate guidance was not provided to the business. This failing has contributed to the present circumstances. Procedures have been put in place to ensure that there should be no repeat of this failing.

4.12 Unfortunately it is considered that the size, materials and style of the sign are inappropriate to the conservation area. An attempt has been made to negotiate a reduced sign approximately half the current size and hand painted rather than printed. As a measure of goodwill the Council has offered to fund the total cost of this replacement. The applicant declined this offer believing the sign to be appropriate in this location and that it meets their requirements.

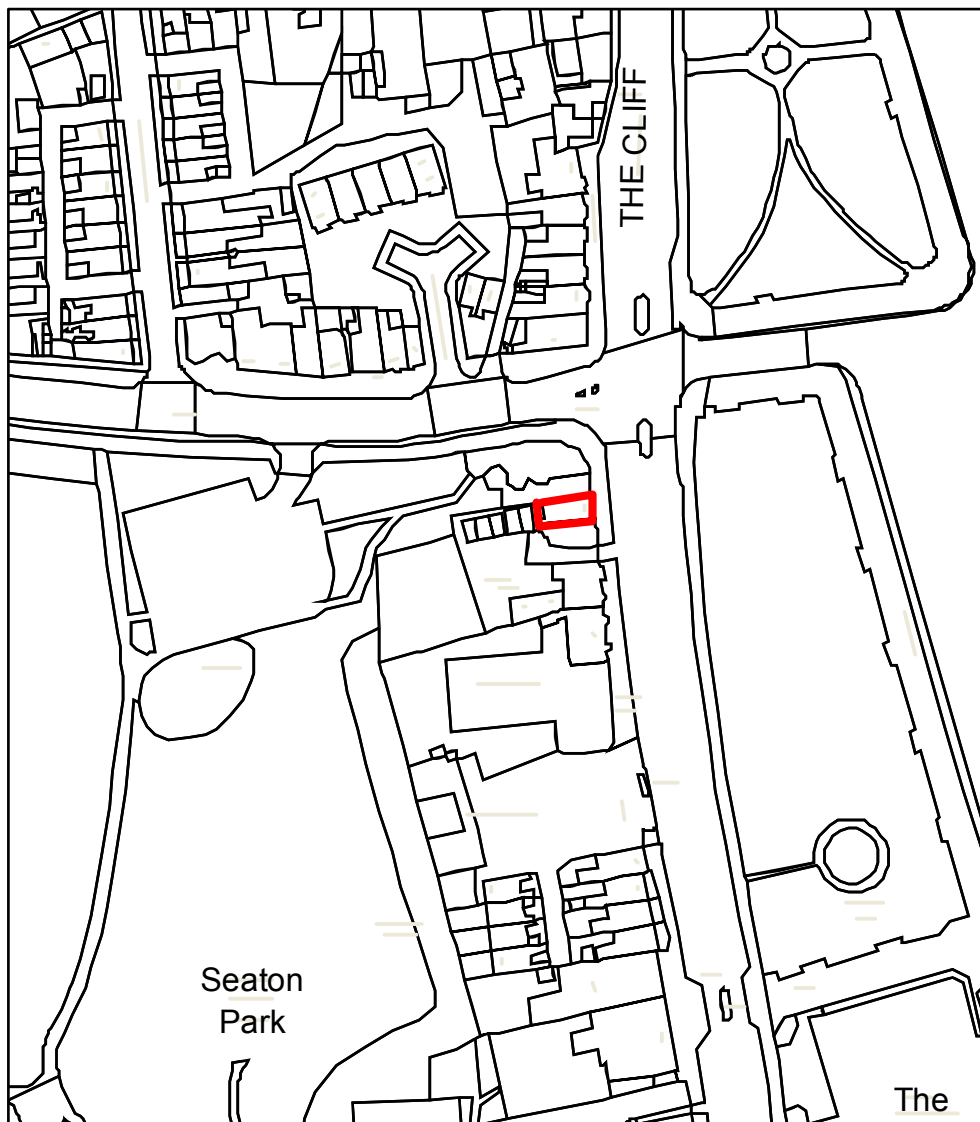
4.13 The fact that a mistake has been made by the Council should have no bearing on the planning considerations here. If consultation had taken place a different size and style of sign would have been recommended as it should always be incumbent on the Council to achieve the best form of development consistent with its location especially if it is grant aiding development. For the reasons outlined therefore refusal is recommended.

RECOMMENDATION - REFUSE

1. It is considered that the size, materials and style of the sign is inappropriate and detrimental to the character of the Seaton Carew Conservation area contrary to policies GEP1 and HE1 of the adopted Hartlepool Local Plan.



2 The Front



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 23/05/07
	SCALE 1:1250	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2007/0163	REV

No: 5
Number: H/2007/0250
Applicant: Simon Hunter Duncan Road Hartlepool TS25 4ED
Agent: 72 Duncan Road Hartlepool TS25 4ED
Date valid: 12/04/2007
Development: Change of use from police office to therapy centre (D1)
Location: 195 BRIERTON LANE HARTLEPOOL

The Application and Site

5.1 The site to which this application relates, 195 Brierton Lane, is a single storey building which was formally used as a police office that is physically attached to 72 Duncan Road, a semi detached 2 storey dwelling house, which is located upon the junction of Brierton Lane and Duncan Road. 195 Brierton Lane is bounded by residential properties to the south and east with Brierton Comprehensive School directly to the north.

5.2 The application seeks consent for the change of use of the single storey pitched roof building to a therapy centre (use class D1). The applicant, who also owns 72 Duncan Road, is a therapist and intends to use the building to treat people with sports injuries, whiplash, non sporting injuries and other therapies e.g stress and tension. The applicant has indicated that he would be looking to use the building on a part time basis to begin with and anticipates a client base of 10-18 people per week. The hours of operation sought have changed since the application was first submitted and are now 8am until 6pm Monday to Friday and 8am until 1pm on a Saturday and at no time on a Sunday. The applicant has confirmed (email dated 5/06/07) that only one therapist would be treating patients at the property at any one time.

Planning History

5.3 Both 195 Brierton Lane (former police office) and the main dwelling house (72 Duncan Road) have been subject to planning applications in the past which are relevant to the consideration of this application.

5.4 195 Brierton Lane has been subject to an application (H/FUL/0260/00) for the provision of a pitched roof and the change of use of the premises from a police office ancillary residential accommodation to the main dwelling at 72 Duncan Road. At the time of the officer's site visit it was apparent that the pitched roof has been completed, however the building appeared in most part vacant.

5.5 An application in 1991 (H/FUL/0262/91) sought a temporary change of use of 72 Duncan Road, from a police house to a Doctor's Surgery. The application was refused by members on highway safety grounds and the loss of parking for the adjacent police office should it be brought back into use.

Publicity

5.6 The application has been advertised by way of neighbour letters (8) and site notice. To date, there have been 5 objections raised

5.7 The concerns raised are:

- i) Increased traffic generation and highway safety issues given the sites location opposite a school and upon a junction.
- ii) There are restrictive covenants upon the deeds of the property regarding the use of the property and the use of the front garden for parking.
- iii) Overlooking on the front elevation of the property.
- iv) Overlooking upon the side elevation of the neighbouring property and possible view upon the rear garden area.
- v) Windows in the side elevation, when open, will overhang the neighbouring property.

Copy letters C

5.8 The period for publicity has expired.

Consultations

5.9 The following consultation replies have been received:

Head of Traffic and Transportation – no objection providing three parking spaces are provided and that a carriage crossing extension is undertaken prior to the business becoming operational.

Head of Public Protection – no objection subject to an hour's restriction to avoid late evening use.

Planning Policy

5.10 The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

Com13: States that industrial, business, leisure and other commercial development will not be permitted in residential areas unless the criteria set out in the policy relating to amenity, design, scale and impact and appropriate servicing and parking requirements are met and provided they accord with the provisions of Com8, Com9 and Rec14.

GEP1: States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, flood risk, trees,

landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

GEP2: States that provision will be required to enable access for all (in particular for people with disabilities, the elderly and people with children) in new developments where there is public access, places of employment, public transport and car parking schemes and where practical in alterations to existing developments.

GEP3: States that in considering applications, regard will be given to the need for the design and layout to incorporate measures to reduce crime and the fear of crime.

Planning Considerations

5.11 The main issues for consideration when assessing this application are the appropriateness of the proposed use in terms of the policies and proposals held within the Hartlepool Local Plan, highway safety and the effect of the proposal upon the amenities of the residents of the surrounding residential properties and the character of the area in general.

5.12 Policy Com 13 of the Hartlepool Local Plan makes provision for commercial uses in residential areas only when there is no significant detrimental effect on the amenities of the occupiers of adjoining or nearby premises by reason of noise, smell, dust or excessive traffic generation. The policy also requires that the design, scale and impact is compatible with the character and amenity of the site and surrounding area and that appropriate servicing and parking provision can be made. The fact that the premises were a former police office is also relevant. Given this, the nature of the proposed use and the hours of operation sought it is considered unlikely that it would give rise to a detrimental effect upon the amenities of the occupiers of the nearby properties in terms of noise and disturbance. The Council's Head of Public Protection has raised no objection to the proposed use subject to a planning condition limiting the hours of use to those proposed. Members will appreciate that it is not unusual to find medically related uses associated with a practitioner's home base.

5.13 The existing building appears subservient in size to both 72 Duncan Road and surrounding properties and does not appear out of character within the immediate and wider locality. No external changes to the building are proposed.

5.14 With regard to the effect of the proposal upon traffic generation and highway safety, it is considered that given the relatively small scale nature of the proposed operation and that there is to be off street parking provision associated with the proposed use at 195 Brierton Lane and that the existing parking provision at 72 Duncan Road is retained, it is unlikely that the proposed use would create detrimental highway safety conditions. The supporting information indicates that provision can be made for four parking spaces to the front of the building to which this application relates. The Head of Traffic and Transportation has visited the site and raised no objection to the proposed use. He has indicated that three parking spaces would be required for the proposed use and that the carriage crossing to the front of the premises from Brierton Lane would need to be extended, prior to the use becoming operational, to accommodate three vehicles to the front. The Officer has

also requested that vehicles associated with the proposed use should not be allowed to park to the front/side of 72 Duncan Road. It is considered that appropriate planning conditions can be attached to any approval to ensure this.

5.15 Whilst acknowledging objectors concerns regarding highway safety and acknowledging that there will inevitably be an increase in traffic movements associated with the use than that of the structure in its current vacant form, it is considered for the reasons stated above that it is unlikely that such a use, at the scale proposed, would lead to detrimental highway safety conditions. Moreover, given the hours proposed, it is not anticipated that the use would lead to detrimental noise and disturbance associated with the coming and going of vehicles and clients on foot, at times of the day when nearby residents would be most likely to expect a reasonable degree of peace and quiet.

5.16 Given that 195 Brierton Lane can be accessed through the attached dwelling and the rear garden (72 Duncan Road) and that there a number of windows and an access door upon the rear elevation of 195 Brierton Lane, it is considered prudent and necessary in the interests of privacy to apply a planning condition which only allows the commercial use of 195 Brierton Lane in conjunction with /ancillary to the ownership of 72 Duncan Road so it cannot be used as an independent business.

5.17 A number of objections have been raised by the occupants of nearby residential properties. The occupants of 193 Brierton Lane have raised objection on the grounds of legal covenants, which they feel are applicable to the determination of this application. Following consultation with the Council's Chief Solicitor it is not considered that the issues raised regarding covenants placed upon the sale of the property are material to the determination of this planning application and are in fact a legal matter. The objector also raises an issue regarding the overhanging of existing guttering onto their property from the application site. This is a civil matter between two parties and not material to the determination of this application.

5.18 The owner of 193 Brierton Lane is also concerned that the windows in the east elevation of 195 Brierton Lane serving two toilets can be opened to create views into the rear garden of their property. It is considered that as the windows exist and were in situ upon the elevation when the property was in use as a police office, it is not considered reasonable in this instance to require that the windows are either removed or are fixed sash.

5.19 The window in the front elevation of 195 Brierton Lane looks directly over the front garden area of 193 Brierton Lane due to the ownership difference to part of the land to the front of the building. One objection relates to the potential overlooking issues from the window upon the objectors front garden. Given the small area of land to the front of the window, the garden area in question area is clearly visible from passing pedestrian and vehicular traffic along Brierton Lane and that the window has existed since the building was in use as a police office, it is not considered that any weight can be given to this concern.

5.20 The objector is concerned that the applicant may wish to use the building on a full time basis and is concerned that the use may be changed to a more intensive use over time for example a Doctor's Surgery/Café. A suitably worded condition

would be attached to any approval can be attached to any approval to ensure the building is only used for the purposes applied for. An application for any other change of use would be considered on its own merits. As stated previously, the use of the premises in the proposed form is considered unlikely to lead to a detrimental effect upon the amenities of the occupants of neighbouring properties.

5.21 The objector acknowledges that devaluation is not a material planning consideration, however they raise saleability as an issue and feel that it will be affected by the approval of this application, this is also not considered a material planning consideration.

5.22 It is considered that at the scale proposed and subject to the conditions set out below the proposed use is acceptable.

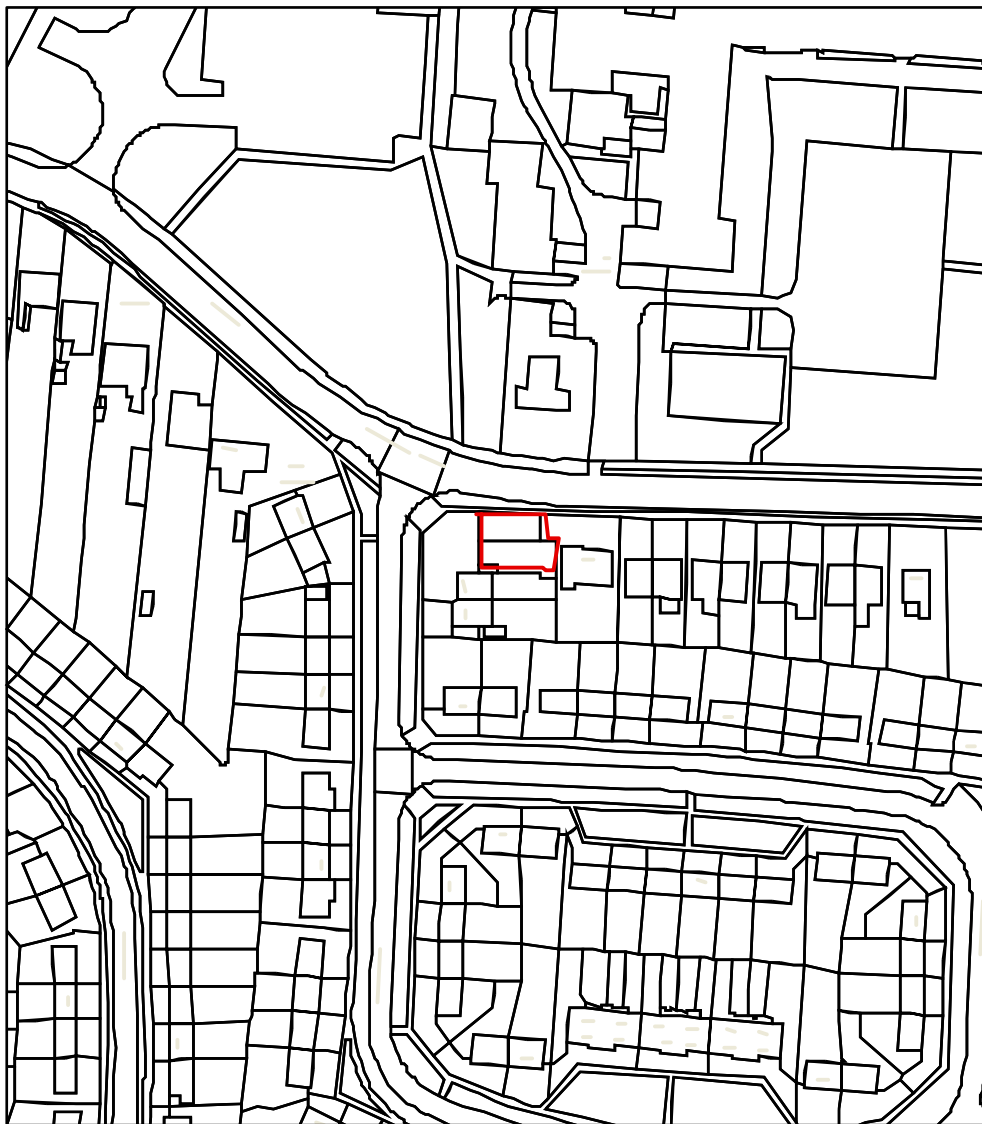
RECOMMENDATION - APPROVE

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid
2. The premises shall only be open to the public between the hours of 0800 and 1800 Mondays to Fridays inclusive between the hours of 0800 and 1300 on a Saturday and at no other time on Sundays or Bank Holidays.
In the interests of the amenities of the occupants of neighbouring properties.
3. The premises shall be used as a therapy centre as described in the supporting documentation associated with the application and for no other purpose (including any other purpose in Class D1 of the Schedule to the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 or in any provision equivalent to that Class in any statutory instrument revoking or re-enacting that Order with or without modification.
In the interests of the amenities of the occupants of neighbouring properties.
4. The use hereby approved shall be carried out in conjunction with the use of the 72 Duncan Road as a single dwellinghouse only and shall not be used independantly.
In the interests of the amenities of the occupants of 72 Duncan Road.
5. There shall be only one person working in the therapy centre at any one time.
In the interests of the amenities of the occupants of neighbouring properties and highway safety.
6. The area indicated for car parking on the plans hereby approved shall be provided before the use of the site commences and thereafter be kept available for such use at all times during the lifetime of the development.
In the interests of the amenities of the occupants of neighbouring properties and highway safety.
7. Prior to the use hereby approved commencing a carriage crossing extension to the front of 195 Brierton Lane must be undertaken to facilitate off street parking provision for 3 vehicles, once implemented the crossing shall be retained throughout the lifetime of the use unless otherwise agreed in writing by the Local Planning Authority.
In the interests of highway safety.
8. Prior to the commencement of the use hereby approved the windows in the elevation facing 193 Brierton Lane shall be fixed sash, once fixed they shall

remain as such throughout the lifetime of the development unless otherwise agreed in writing by the Local Planning Authority.
To prevent overlooking



195 Brierton Lane



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 18/06/07
	SCALE 1:1250	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2007/0250	REV

No: 6
Number: H/2007/0335
Applicant: Mr D Re zai Marco Polo restaurant York Road hartlepool
TS26 8AD
Agent: Jacksonplan Limited 7 Amble Close Hartlepool TS26 0EP
Date valid: 26/04/2007
Development: Variation of permission to permit use of premises as a
restaurant and bar
Location: MARCO POLO RESTAURANT YORK ROAD
HARTLEPOOL

The Application and Site

6.1 The application site is an existing restaurant located on the edge of the Town Centre. It is located at on the west side of York Road at the junction with Alma Street and Milton Road. The remnants of the Alma Street and Milton Road, truncated by the Barbara Mann Court development, form cul-de-sacs which surround the site. It is located on a largely commercial frontage with two takeaways and hairdressers with flats above to the south. To the north is an Indian Restaurant. On the opposite side of York Road are a bingo hall, a vacant restaurant, a Pizzeria and offices. To the south east are shops and offices some with flats above. Close by to the west are residential properties associated with Barbara Mann Court, these are fenced off from the cul-de-sacs which surround the application site. Further to the north towards Elliott Street the area becomes residential in character.

6.2 It is proposed to change the use of the premises from a restaurant to a mixed use of restaurant and bar. The applicant advises that whilst 99% of customers partake of meals with accompanying drinks on occasion a customer attending with a person having a meal will have a drink only. The applicant's premises licence, which had previously allowed only for drinks to be served to diners, was varied in March 2007 to allow for this. However the planning permission technically allows for the premises use only as a restaurant, though the very occasional person having a drink only with diners would be likely to be considered de minimus. The applicant's insurance broker however has raised the concern that this apparent discrepancy between the premises licence and the planning permission may compromise his insurance cover should any incidents occur. The applicant has therefore resolved to apply for planning permission to allow for a mixed restaurant and bar use in order to address this apparent anomaly. No alterations are proposed.

Planning History

6.3 The site has a complicated planning history. All the applications referred to below in this section have been made by current applicant.

6.4 Planning permission for a restaurant on the site was first approved in July 1998 subject to various conditions these included a condition restricting the use of the premises to a restaurant use and the hours to between 8am and midnight Mondays

to Saturdays with no opening on Sundays (H/FUL/0296/98). These conditions were imposed in the interests of the amenities of nearby flats.

6.5 In November 1999 an application, to vary conditions applied to the above approval to allow a bar on the ground floor with restaurant at first floor open 7 days a week was refused for reasons relating to the amenity of nearby residential properties. (H/FUL/0440/99). A subsequent appeal was dismissed in 2000. (See decision letter **Appendix 1**).

6.5 In December 2001 planning permission was approved for an extension to the restaurant again a condition restricted the use to a restaurant use only and the hours of operation to between the hours of 8am and midnight Mondays to Saturdays with no opening on Sundays (H/FUL/0548/01).

6.6 In November 2002 permission to use the premises on a Sunday between 10:30 and 22:30 for private functions was granted on a temporary basis (H/FUL/0540/02). This was given a permanent permission in June 2003 (H/FUL/0290/03).

6.7 In April 2005 a temporary planning permission was granted for the general use of the restaurant on a Sunday between the hours of 10:30 to 22:30 on a Sunday. (H/FUL/0146/05).

6.8 In September 2006 planning permission was granted to allow the restaurant to open between 12:00 to 24:00 on a Sunday on a permanent basis. (H/2006.0505)

Other Relevant Appeals in the vicinity

6.9 A number of other appeals in the vicinity are also considered of relevance to the current application.

6.10 Members may recall a recent application to change the use of 86/88 York Road on the opposite side of the road, to the south east of the application, to a public house on the ground floor with a restaurant on the first floor. This application was refused following its consideration by Committee on 16th September 2004 for highway reasons and reasons relating to the amenity of the occupiers of nearby residential properties. The applicant appealed against this decision. The Inspector did not support the highway reason for refusal. The Inspector did conclude however that the development would have a harmful effect on the living conditions of the occupants of nearby residential properties and the appeal was therefore dismissed in 2005 (see decision letter appendix 2).

6.11 Also on the opposite side of the road at 78 York Road, and on the applicants side to the north at 87/89 York Road applications to change the use of the premises to restaurants were allowed on appeal subject to conditions restricting their use to a restaurant use. This was at a time when a restaurant fell within the same A3 use class as a public house, which meant that unless restricted by condition, the use could change between the two. (They now fall within different use classes and so planning permission is required). The imposition of these conditions reflected the Inspector's concerns in relation to residential amenity and the differing environmental

impacts associated with other A3 uses which without such a condition could otherwise be established.

6.12 At 85 York Road on the same side of York Road but to the north of the application site an appeal against the refusal of permission for a hot food takeaway was also dismissed the Inspector concluding that the use would generate unacceptable disturbance and would ham the living conditions of nearby residents.

Publicity

6.13 The application has been advertised by site notice and neighbour notification (34).

6.14 One letter of objection, three letters of no objection, and seven letters of support from customers have been received. The time period for representations has expired.

6.15 The objectors raise the following issues

- i) House is close by and quality of life will be affected.
- ii) Already suffer noise nuisance from the bars in this area till early hours of the morning.

6.16 Those writing in support of the application have raised the following issues:

- i) They would welcome the opportunity to have a drink at the premises without having to buy a meal.
- ii) The applicant operates a select establishment with a clientele who are not part of the drinking and trouble making set and he would not from my experience, allow "drinker" into his premises.

Copy letters E

The period for publicity has expired.

Consultations

6.17 The following consultation replies have been received:

Head of Public Protection - This premises is located in very close proximity to residential properties in Barbara Mann Court. Any variation of the permission which would allow the use of the premises as a bar in this location would result in considerable nuisance to the residents and I am therefore of the opinion that this application should strongly be resisted.

Cleveland Police - I have spoken to our licensing department with regards to this application, they have no concerns with the proposed bar. We would however expect them to fit some CCTV to the bar area, entrances and outside curtilage, to

assist in their management and to deter anti-social behaviour, assaults, and thefts etc.

Traffic & Transportation - The property is just outside the town centre car parking area. Although it is located on the main priority bus route. The property has no off street parking. It would be very difficult to sustain an objection to the proposal due to the lack of parking because of a previous appeal decision regarding the property.

Planning Policy

6.18 The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

Com12: States that proposals for food and drink developments will only be permitted subject to consideration of the effect on amenity, highway safety and character, appearance and function of the surrounding area and that hot food takeaways will not be permitted adjoining residential properties. The policy also outlines measures which may be required to protect the amenity of the area.

Com4: Defines 10 edge of town centre areas and indicates generally which range of uses are either acceptable or unacceptable within each area particularly with regard to A1, A2, A3, A4, A5, B1, B2, & B8 and D1 uses. Proposals should also accord with related shopping, main town centre uses and recreational policies contained in the plan. Any proposed uses not specified in the policy will be considered on their merits taking account of GEP1.

GEP1: States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, flood risk, trees, landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

GEP3: States that in considering applications, regard will be given to the need for the design and layout to incorporate measures to reduce crime and the fear of crime.

Rec13: States that late night uses will be permitted only within the Church Street mixed use area, or the southwest area of the Marina subject to criteria relating to amenity issues and the function and character of these areas. Developer contributions will be sought where necessary to mitigate the effects of developments.

Planning Considerations

6.19 The main planning considerations are considered to be policy, the impact of the proposal on the amenity of nearby residential properties and highways.

POLICY

6.20 The application site lies in an edge of town centre location. Policy Com 4 of the Hartlepool Local Plan states that in this area drinking establishments will not be permitted. The proposal is therefore considered contrary to policy. Section 38 of the Planning & Compulsory Purchase Act 2004 states "If regard is to be had to the development plan for the purpose of any determination to be made under the planning Acts the determination must be made in accordance with the plan unless material considerations indicate otherwise". It is not considered that the applicant's concerns over his insurance position are a material consideration and so can be given little weight in the determination of this application. Policy and the impacts the proposal could have on the amenity of nearby residents on the other hand clearly are important material considerations.

IMPACT ON THE AMENITY OF NEARBY RESIDENTIAL PROPERTIES

6.21 The application site lies at the northwestern edge of the town centre where commercial uses give way to residential areas of the town. It is in these areas where uses such as bar uses, which support the nighttime economy, can come into conflict with the amenity of the occupiers of nearby residential areas. The area already experiences a good deal of disruption and anti-social behaviour associated with such uses. In close proximity to the rear of the premises are residential properties (Barbara Mann Court) whilst they are also flats above commercial premises in the vicinity. The Head of Public Protection has objected to the proposal on the grounds that the use of the premises as a bar would result in considerable nuisance to the occupants of nearby residential properties. This was also the view of the Inspector when an appeal seeking permission for a bar/restaurant on this site was first considered in 2000. A similar view was taken by the Inspector in 2005 when an appeal seeking permission for a public house and restaurant on the site on the opposite side of the road (86-88 York Road), which is further from the residential development of Barbara Mann Court, was considered. Concerns in relation to residential amenity have also been reflected in other appeal decisions in the vicinity where when appeals for restaurant uses have been allowed conditions have been imposed by Inspectors restricting the use to a restaurant use.

6.22 Inspectors have commented at various times as follows:

- i) Bar and restaurant at the application site (ref: H/FUL/0440/99) -In considering the bar proposal the Inspector noted "9...that the residual section of Alma Street, which provides access to the rear of the appeal premises, but is no longer a through route, could be used for on street parking after 19.00 hours. It would also provide a convenient collection and turning location for taxis". He opined " 10...the proposed use as a bar and restaurant would be likely to lead to a greater number of customers per day, as some would stay for shorter periods than at a restaurant alone. There would therefore be a greater potential for parking and vehicles manoeuvring at the rear of the property, causing noise and disturbance outside the appeal premises. This location is only a few metres from new residential development at Barbara Mann Court, and close to a dwelling at the corner of Elliott Street.... Customers congregating outside the premises, returning to their vehicles or awaiting taxis would also be likely to be

a further source of external noise affecting local residents, and would be greater in number and probably more vocal if the premises was a bar and restaurant, rather than a restaurant alone". The Inspector concluded that to "permit a bar and restaurant at the appeal site would increase customer numbers and be likely to result in additional noise outside the premises, which would be materially harmful in its effect on local residents" (see decision letter **Appendix 1**)

- ii) Pub and restaurant at 86/88 York Road (H/FUL/0440/99) - The Inspector expressed the view that "11...although the current situation is recognised as creating a noise environment that is relatively poor for local residents, their living conditions would be progressively eroded by the increased activity arising from each additional food and drink use trading in the locality. In this respect, the Council made a significant point at the hearing that the proposal would bring a public house on to a part of the York Road commercial frontage that does not presently accommodate such a use. I share the Council's concern that, throughout the evening, a successful new public house would attract a significant number of customers into York Road who would not otherwise be in this part of the street at that time of night. I consider that the comings and goings of these customers on foot and by vehicle together with the congregation that would occur outside the premises, would increase the current levels of noise and disturbance in this part of the street...12... In reaching this conclusion, I have had regard to the other, existing uses in the street that would currently attract customers during the evening including restaurants, the hot food premises and the bingo hall. However whilst these establishments would give rise to some activity in this part of York Road, I consider that the proposed use particularly the A4 use, with its attendant problems of noise, disturbance and congregation, would add to it to an unacceptable degree".
- iii) Hot food takeaway at 85 York Road - In considering the appeal the Inspector states "4...I have noted the presence of residential property to the west, in close proximity to the rear of the appeal site (Barbara Mann Court). Although separated from the housing area by fencing there are windows in the dwellings, which directly face the site. Whilst customers of the proposed takeaway would use the front entrance, away from the housing, any car born customers would be likely to be attracted to the short dead end street at the rear. The use of this area would require turning manoeuvres, which would in turn generate noise. When added to the rewing of engines and slamming of car doors this would be likely to result in disturbance to residents in the houses to the rear...5...It seems to me that an addition to the stock of takeaways locally would encourage more people to congregate late at night with the strong possibility of greater disturbance being caused through high spirits and raised voices".

6.23 Whilst the applicant's stated intention is that the restaurant would continue to operate as it does at present it is considered that once a mixed bar and restaurant use is permitted it would be very difficult for the Local Planning Authority to ensure that character of the premises did not change. The letters of support received from customers clearly indicate that, notwithstanding the applicant's stated intention, their is an aspiration to use the premises as a bar amongst his clientelle one writer states "As a practice we have utilised the above restaurant in the past for staff functions

and we confirm that having discussed matters with our staff there has been general favourable opinion that the restaurant would be utilised for an occasional after work drink, without utilising the full restaurant facility". Another supporter writes "We are a practice with forty five employees, who would on occasions like to use the restaurant without having a meal". The applicant could also, at some future date, sell the property with an extant planning permission for a bar and restaurant use to an owner with less benign intentions who might develop the bar use further and would have the necessary permission in place to do so. Further any grant of permission could encourage other restaurateurs in the vicinity to submit similar applications, or indeed, even encourage other applications for bar type uses in this area of York Road which have previously been successfully resisted at appeal with an expectation that permission would be granted.

6.24 It is considered that a mixed bar and restaurant use would be likely to lead to a greater number of customers per day visiting the premises, as some would stay for shorter periods than at a restaurant alone. There would therefore be a greater potential for parking and vehicles manoeuvring around the property, causing late night noise and disturbance outside the appeal premises in close proximity to the residential properties in the area particularly at Barbara Mann Court. Customers congregating outside the premises, returning to their vehicles or awaiting taxis would also be likely to be a further source of external noise affecting local residents, and would be greater in number and probably more vocal than if the premises was a bar and restaurant, rather than a restaurant alone. It is considered therefore that the proposal would have a detrimental impact of the amenities of the occupiers of nearby residential accommodation contrary to policies GEP1 and Com 12 of the Hartlepool Local Plan.

HIGHWAYS

6.25 The site does not enjoy the benefit of any off street parking. York Road is part of the Bus Priority Route in the town. Highways have advised that they consider it would be difficult to sustain an objection on grounds given previous appeal decisions. In highways terms therefore the proposal is considered acceptable.

CONCLUSIONS

6.26 The proposal is considered contrary to Local Plan policies which do not allow for such uses in this part of the Town and seek to protect the amenity of neighbouring properties. The applicant's concerns in relation to his insurance position are not a material planning consideration and can be given little weight. It is recommended for the reason discussed above that the application be refused.

6.27 In relation to the applicants insurance concerns if these cannot be addressed by his insurance company, or another provider, it seems he might still have it in his own hands to address the problem. For example by strictly adhering to his planning permission by not serving the occasional drinker and by amending his premises licence accordingly.

RECOMMENDATION - REFUSE

1. The application site lies within an area where the adopted Hartlepool Local Plan seeks to discourage uses of this type. It is considered that a mixed bar and restaurant use here would have a detrimental impact on the amenities of the occupiers of nearby residential accommodation by reason of noise, general disturbance and anti social behaviour contrary to policies GEP1, Com4 and Com12 of the adopted Hartlepool Local Plan.

APPENDIX 1

Appendix 1



Appeal Decision

Hearing held on 18 July 2000

by Diana Clark BSc MSc CChem MRSC MCIWEM

an Inspector appointed by the Secretary of State for the
Environment, Transport and the Regions

The Planning Inspectorate
Room 1404
Tollgate House
Houlton Street
Bristol BS2 8DJ
☎ 0117 987 8927

Date
8 AUG 2000

Appeal Ref: APP/H0724/A/00/1041566

91a York Road, Hartlepool

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission under section 73 of the Town and Country Planning Act 1990 for the development of land without complying with conditions subject to which a previous planning permission was granted.
- The appeal is made by Mr D Rezai against the decision of Hartlepool Borough Council.
- The application (ref: H/FUL/0440/99), dated 3 September 1999, was refused by the Council by notice dated 19 November 1999.
- The application sought the variation of conditions attached to a planning permission (ref: H/FUL/0296/98), dated 23 July 1998, for change of use from a tyre/exhaust centre to a pasta restaurant including elevational alterations and front entrance extension at 91a York Road.
- The conditions in dispute are Nos. 2 and 5 which state that:
 2. Notwithstanding the provisions of Class A3 of the Town and Country Planning (Use Classes) Order 1987 or any subsequent amending legislation the premises shall only be used as a restaurant with no takeaway service whatsoever and for no other purpose within that Class.
 5. The premises shall only be open to members of the public for the service and consumption of food between the hours of 8 am and Midnight Mondays to Saturdays and not at all on Sundays.
- The reasons given for the conditions in both cases were:
In the interests of the amenities of the occupiers of nearby flats.

Summary of Decision: The appeal is dismissed.

Procedural Matters

1. The application which is the subject of this appeal proposed the amendment of condition No 2 to permit the ground floor of the premises to be used as a Tapas Bar with a restaurant above on the first floor, and to extend the opening hours to include Sundays.
2. The appellant's statement clarified that the amendment of opening hours requested by the application was 11.00 to 15.00 hours and 18.00 to 24.00 hours on Mondays to Saturdays, and 18.00 to 23.30 hours on Sundays.

Main Issues

3. From hearing and reading all the representations in this case, and from my inspection of the appeal site, I consider that the main issue on which my decision will turn, is the effect of the proposed variation of planning conditions on the living conditions of the occupants of neighbouring residential properties, with reference to noise and disturbance.

Planning Policy and Guidance

Appeal Decision APP/H0724/A/00/1041566

4. In terms of the development plan, the Council has referred me to Policies Gen1, Gen3, Gen4, Ec19 and Tr6 of the Hartlepool Local Plan (1994). Policy Gen1 sets out the principles for the determination of planning applications, including consideration of the effects on amenities, due to noise and disturbance, among other things. Policy Gen3 refers to the provision of access for disabled people to new development and Policy Gen4 relates to the incorporation of crime prevention measure in development design.
5. Policy Ec19 sets out the use classes, A1, A2 and B1, favoured in the Town Centre Fringe Areas, which will normally be approved in these areas, subject to adequate service arrangements. Residential use of upper floors above shop and business premises is also favoured by the policy, subject to insulation against noise. This policy notes that parking provision may be relaxed in these areas where public provision is adequate, although uses generating significant numbers of people will not normally be permitted where on-site parking cannot be provided. Noise insulation measures may be imposed on commercial development adjoining existing residential property.
6. Car parking standards are the subject of Policy Tr6 although provision of non-operational parking is not a normal requirement in fringe town centre areas served by public car parks.

Reasons

7. The appeal premises are a vacant two-storey property situated on the western side of York Road. The site lies within the Town Centre Fringe Area shown on the Proposals Map and immediately adjoins the defined Town Centre boundary. The vacant property, formerly a tyre and exhaust centre, was marketed for two years, without success, prior to the application for planning permission for change of use to a restaurant. That permission has not yet been implemented as the results of the appellant's market research study indicate that it would not be financially viable as a restaurant. Further attempts to market the property for another year have been unsuccessful, and the appellant now wishes to renovate the premises as a bar and restaurant. At the hearing, he emphasised that it was not his intention to open a public house, but simply to operate a restaurant with bar facilities.
8. When planning permission was granted for change of use to a restaurant, the Council stated that it imposed restrictions on the use within Class A3 to a restaurant only, as this was considered to be less likely to cause disturbance to neighbouring residents, as such uses are not normally considered appropriate to the Town Centre Fringe Area. Similarly, the opening hours were restricted and Sunday opening was not permitted in order to ensure that local residents could have peaceful enjoyment of their homes.
9. The appeal premises have no on-site parking provision, but the requirement for this was relaxed due to the Town Centre Fringe Area location when change of use to a restaurant was granted, based on the availability of public parking in the vicinity. I accept that parking facilities are located conveniently close to the appeal site. However, at my inspection of the site I saw that the residual section of Alma Street, which provides access to the rear of the appeal premises, but is no longer a through route, could be used for on-street parking after 19.00 hours. It would also provide a convenient collection and turning location for taxis.
10. In my opinion, the proposed use as a bar and restaurant would be likely to lead to a greater number of customers per day, as some would stay for shorter periods than at a restaurant alone. There would therefore be a greater potential for parking and vehicle manoeuvring at the rear of the property, causing noise and disturbance outside the appeal premises. This

Appeal Decision APP/H0724/A/00/1041566

location is only a few metres from new residential redevelopment at Barbara Mann Court, and close to a dwelling at the corner of Elliott Street. There are some residential flats above business premises in York Road, but those closest to the appeal site appeared to be unoccupied at the time of my site inspection. I note that there is a small taxi stand on the opposite side of York Road in Middleton Grange Lane, but due to demand in the locality from other facilities such as the bingo hall, I do not consider it would prevent increased vehicular noise around the appeal site. Customers congregating outside the premises, returning to their vehicles or awaiting taxis would also be likely to be a further source of external noise affecting local residents, and would be greater in number and probably more vocal if the premises was a bar and restaurant, rather than a restaurant alone.

11. The appellant indicated at the hearing that it was not his intention to run the premises as a public house, but as a bar and restaurant for a select clientele. However, it appears to me that the proposed use would, in effect, be a more modern version of a public house where alcoholic drinks could be served without customers having a meal. The main point is however, that planning permission runs with the land, and that if condition No 2 was relaxed to include a bar, the premises could in future operate as a public house, without the need for any further planning approval.
12. I accept that it would be possible to impose an additional condition requiring the installation of sound insulation as part of the premises refurbishment, in order to minimise any effect of noise from within the premises. I do not doubt that this could be achieved effectively. My main concern is however, the effect of external noise from people and vehicles and the close proximity to residential properties. In my opinion, the additional customers who would make the proposed bar and restaurant more economically viable, would also have an increased and unacceptable impact in terms of noise and disturbance on the occupants of neighbouring dwellings.
13. The appellant's case refers to an overall reduction in opening hours notwithstanding the proposed Sunday opening. I do not accept that as a valid argument in planning terms, as the reduction would be achieved by the premises being closed between 15.00 and 18.00 hours on Mondays to Saturdays, at times when local residents would either be at work or going about their normal daily activities. At these times, the matter of noise and disturbance is not a significant planning issue, due to the generally higher ambient noise levels occurring in the daytime. The key area of concern in respect of noise is in the late evenings, and to some extent at weekends, when residents may wish to have peace and quiet either to sleep or enjoy relaxation from normal activities. On that basis I do not accept that the apparent reduction in weekday opening hours can be equated to the proposed introduction of Sunday evening opening.
14. Other examples have been cited by the appellant of premises in the town where similar controls on opening hours are not applied, and to the trend towards a 24-hour society. I accept the Council's explanation that there are no restriction on opening hours on Class A3 premises within the Town Centre area, because such uses are expected to be concentrated there where higher levels of late night noise are acceptable. The appellant has also referred to a recent development in the marina where residential flats are located immediately above a bar and restaurant. I accept that the latter has been constructed as a purpose-built mixed use development, but that is not an area where Policy Ec19 applies. This policy identifies the anticipated uses within the Fringe Area, and does not include Class A3. In my view, the reason for this is clearly the potential for such uses to cause noise and disturbance to the

Appeal Decision APP/H0724/A/00/1041566

established residential properties. It follows from this, in my opinion, that any Class A3 uses approved within such an area must be carefully controlled.

15. The appellant has disputed the logic of the inclusion of the appeal site within the Fringe Area, rather than the Town Centre whose boundary is immediately adjacent to the appeal site. It is important to understand the primacy of the development plan, of which the Local Plan is a major element, in the consideration of planning applications. This is established by section 54A of the Town and Country Planning Act 1990. The Proposals Map is part of the Local Plan, which has been the subject of full public consultation prior to its adoption, and such demarcations indicating which policies apply to particular areas cannot therefore be regarded as purely arbitrary judgements. In my view, the appeal site lies within the Fringe Area primarily because of its proximity to residential property. The noise-sensitive nature of residential property in relation to other uses is recognised by Policy Ec19.
16. In my opinion the proposed amendment of condition No 5, extending opening hours to include Sundays would be materially harmful to the living conditions of residents in such close proximity to the appeal site. I consider that amendment of condition No 2 to permit a bar and restaurant at the appeal site would increase customer numbers and be likely to result in additional noise outside the premises, which would be materially harmful in its effect on local residents. Whilst I support the principle of returning this vacant building to beneficial use and recognise the benefits of this to the locality, I consider that this would not outweigh the harm likely to result from the proposed amendment of these planning conditions. I do not consider that any alternative planning conditions could adequately ameliorate these adverse effects, which would be contrary to the intentions of Policy Gen1 of the Local Plan.

Conclusions

17. For the reasons given above and having regard to all other matters raised, I conclude that the appeal should be dismissed.

Formal Decision

18. In exercise of the powers transferred to me, I dismiss the appeal.

Diana Claff

INSPECTOR

Appeal Decision APP/H0724/A/00/1041566

APPEARANCES

FOR THE APPELLANT:

Mr B Watson BSc FRICS FCIOB Chartered Building Surveyor, 28A Church Street,
FIOC Hartlepool.
Mr D Rezai Appellant.

FOR THE LOCAL PLANNING AUTHORITY:

Mr R Hepplewhite BSc(Hons) Planning Officer, Hartlepool Borough Council.

DOCUMENTS

Document 1 List of persons present at the Hearing.
Document 2 Council's letter of notification of the appeal and list of persons notified.
Document 3 Letter of representation from Mr Foster

PLANS

Plan A Application plans:
A(1) Location map OS extract
A(2) Location plan of appeal site and surrounding area (no scale).
Plan B Additional plans submitted at the appeal stage:
B(1) Drawing No PBR/208/02
B(2) Drawing No PBR/208/03A
Plan C Hartlepool Local Plan Proposals Map – May 1994.

PHOTOGRAPHS

Photo 1 Set of 12 colour copies of views of the appeal site and surrounding area.

APPENDIX 2

Appendix 2



Appeal Decision

Hearing and site visit held on 31 August 2005

by Anthony J Wilson BA(Hons) MA DipLA MRTPI

an Inspector appointed by the First Secretary of State

The Planning Inspectorate
409 Kite Wing
Temple Quay House
2 The Square
Temple Quay
Bristol BS1 6PN
☎ 0117 372 6372
e-mail: enquiries@planning-
inspectorate.gsi.gov.uk

Date

04 OCT 2005

Appeal Ref: APP/H0724/A/04/1165129

86/88 York Road, Hartlepool, TS26 8AB

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
- The appeal is made by K Johnson against the decision of Hartlepool Borough Council.
- The application Ref: H/FUL/0547/04, dated 23 June 2004, was refused by notice dated 16 September 2004.
- The development proposed is described as 'the change of use from use classes A1, A2 and C3 to use class A3 – public house on ground floor, restaurant on first floor and storage at second floor, and new ground floor frontage'.

Summary of Decision: The appeal is dismissed.

Procedural Matters

1. Since the determination of the application, the Town and Country Planning (Use Classes) (Amendment) (England) Order 2005 has come into effect, which has created new use classes relating to food and drink uses. It was agreed with the main parties that the application at appeal now relates to an A4 public house use on the ground floor and an A3 restaurant use on the first floor and that the description of the application should be amended as follows to reflect the new use classes:- "The change of use from use classes A1, A2 and C3 to use class A4 - a public house on the ground floor; use class A3 - a restaurant on the first floor; storage on the second floor; and a new ground floor frontage".
2. Clearly, the development plan policies predate the change in the use classes and continue to refer to A3 uses. For clarification, references made to class A3 in the policy documents referred to in my decision would cover the 3 new classes of A3, A4 and A5.
3. At the hearing, an application for costs was made by the appellant against the Council. This application is the subject of a separate Decision.

Main Issues

4. I consider that the main issues are:
 - a) the effect of the proposals on the living conditions of the occupiers of residential properties in the locality, with particular regard to any impact from noise and other disturbance; and
 - b) the impact of the proposed development on highway safety and the free flow of traffic in York Road.

Appeal Decision APP/H0724/A/04/1165129

Planning Policy

5. A significant number of national, regional and strategic development plan policies have been referred to in the submissions by the main parties. However, it was agreed at the hearing that whilst the thrust of these strategic documents encourage a mix of uses in town centre locations, including food and drink premises, it is the policies of the Hartlepool Local Plan (HLP) (1994) which contain the detailed caveats which seek to ensure that these otherwise acceptable land uses do not give rise to adverse environmental effects. I consider, therefore, that the following policies are the most relevant in respect of the main issues that I have identified.
6. Policy Gen1 sets out the general considerations against which all development proposals will be assessed. These include the effect on the amenities of occupiers of nearby properties arising from, amongst other things, general disturbance and noise, and any effect on highway safety. Policy Ec14 records that within Hartlepool town centre, as defined on the Proposals Map, proposals for commercial uses, including those falling within Class A3, will normally be approved.
7. The Local Plan is presently under review in the form of the Hartlepool Local Plan - Revised Deposit (2003), which I understand is at an advanced stage in its progress towards adoption. However, I was advised at the hearing that, in the light of the Inspector's recent Inquiry Report, the Council were reconsidering the boundaries of the town centre and in particular, the extent of the Edge of Centre Mixed Use Areas covered by emerging Policy Com3a. The Council conceded that there was no certainty as to how this might affect the York Road area, where the appeal site is located. It was therefore agreed with the main parties that I would be guided by the current local plan in terms of the definition of the town centre and the acceptable land uses within it. However, it was acknowledged that the following general policies of the emerging local plan would apply. Amongst other things, Draft Policy GEP1 reiterates the relevant provisions of existing Policy Gen1 in terms of the assessment of new development proposals in relation to the amenities of local residents and to highway safety. Emerging Policy Com 18 indicates that A3 uses will only be permitted where certain criteria are met. These include the requirements that there will be no significant detrimental effect on the occupiers of nearby properties by reason of noise, disturbance, smell and/or litter, and that they will not adversely affect highway safety.

Reasons

Living conditions

8. The appeal site lies towards the north western edge of the defined town centre, where the commercial uses on York Road take their place alongside terraces of houses lying behind the frontages of the main road. I agree with the Council that it is in these particular locations where the impact of the night-time economy, so actively encouraged by national and local policies to maintain the vitality and viability of the town centre, can begin to conflict with the amenities of long-established residential properties. Indeed, I heard evidence from a resident of Dent Street, which lies to the north west of the site, that the occupiers of houses in this street are regularly subjected to a significant degree of late night and early morning noise, disturbance and other detrimental effects, including unacceptable levels of drink-fuelled violence and anti social behaviour. I was told that this arises from

Appeal Decision APP/H0724/A/04/1165129

customers making their way home along the surrounding streets after leaving the local entertainment and drinking establishments.

9. I understand that the same local resident spoke at the planning committee meeting when the application was determined. Although the appellant considers that his comments to the councillors were unsubstantiated, I consider that his evidence is supported by the written observations, describing the existing, late night, noise environment and other adverse effects on the locality, made by the Wharton/Errol Street Residents Association, the Council's Head of Protection, the Town Centre Manager and the Police. Moreover, nothing I have read or heard suggests to me that such activities, and their harmful impact on the living conditions of the residents, are not a regular and regrettable part of the evening and night time environment in this part of the town.
10. It was acknowledged by the appellant that problems of noise and disturbance do arise from the existing, local, drinking establishments. However, it was argued that the noise environment already created by the number of food and drink premises in very close proximity to the site would not be made significantly worse by the proposals. The appellant also considers that, in accepting the Council's recommended condition that the premises would not operate after midnight, the proposals would not contribute to the most serious problems of noise and disturbance, arising in the early hours as the existing late night/early morning uses discharge their customers into the streets.
11. However, I subscribe to the alternative line of reasoning that, although the current situation is recognised as creating a noise environment that is relatively poor for local residents, their living conditions would be progressively eroded by the increased activity arising from each additional food and drink use trading in the locality. In this respect, the Council made a significant point at the hearing that the proposal would bring a public house on to a part of the York Road commercial frontage that does not presently accommodate such a use. I share the Council's concern that, throughout the evening, a successful new public house would attract a significant number of customers into York Road who would not otherwise be in this part of the street at that time of night. I consider that the comings and goings of these customers on foot and by vehicle, together with the congregation that would occur outside the premises, would increase the current levels of noise and disturbance in this part of the street.
12. In reaching this conclusion, I have had regard to the other, existing uses in the street that would currently attract customers during the evening, including the restaurants, the hot food premises and the bingo hall. However, whilst these establishments would give rise to some activity in this part of York Road, I consider that the proposed use, particularly the A4 use, with its attendant problems of noise, disturbance and congregation, would add to it to an unacceptable degree. The appellant also argued that there are public houses on York Road, south of its junction with Victoria Road. However, I consider that these lie closer to the heart of the town centre and are more closely associated with other mainly commercial uses rather than residential properties.
13. I acknowledge that only 1 residential flat could be identified above the commercial frontage of York Road, and I understand that this is linked to the existing restaurant use on the ground floor at 91A, opposite the appeal site. However, due to the gaps in the street frontage, I consider that the houses in Barbara Mann Court are sufficiently close to the site

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to be directly affected by any increased noise and disturbance, in the street, outside the appeal site.

14. Although I recognise that national and local policies encourage A3 uses in the town centre, I consider that the additional harm that would be caused to the living conditions of the occupiers of the nearby dwellings would be sufficiently significant to conflict with the terms of Policy Gen1 of the HLP and Policies GEP1 and Com18 of the emerging local plan.
15. I have considered whether my concerns on this issue could be overcome by the imposition of reasonable planning conditions, or by the appellant's offer of a unilateral agreement under the provisions of the Council's emerging policies on financial contributions. However, given that the detrimental effects would relate to activity in the street, I do not consider that conditions, or a legal agreement, would be successful in mitigating the harm that I have identified.

Highway safety

16. As one of the main routes to and from Hartlepool town centre, York Road is a busy thoroughfare, particularly at the traffic light controlled junction with Victoria Road. In front of the appeal site, the current waiting restrictions end at 7pm. At the hearing, the Council accepted that, at the present time, any calling vehicle could legitimately stop or park directly outside the appeal site after 7pm. However, it was argued that the present waiting restrictions reflected the nature of the existing uses, which would be unlikely to generate calling vehicles after this time, compared with the number of vehicle-borne customers likely to be attracted to a public house and restaurant. The Council went on to argue that the proposed uses would lead to potentially hazardous parking and manoeuvring on the highway in front of the site, similar to that recorded nearby on Victoria Road outside similar food and drink premises.
17. I acknowledge that if such manoeuvres were to take place, so close to the junction, it would give rise to some risk to other users of the highway and potentially hazardous interruptions to the free flow of traffic. However, I consider that the offer by the appellant to install a pedestrian safety barrier, as recommended by the highway authority, would be an appropriate and effective deterrent to kerbside parking by vehicles visiting the premises. This arrangement has been followed in York Road, south of the junction, and is clearly very successful in preventing vehicles parking, calling or delivering to the commercial buildings along the road frontage. If a similar barrier arrangement were appropriately installed in front of the appeal site, I consider that it would prevent vehicles dropping off or picking up customers close to this busy road junction. The alteration of the Traffic Regulation Order (TRO) to restrict waiting at all times, suggested by the highway authority and accepted by the appellant, would also have some impact in preventing parking outside the site, on the approach to the traffic lights. I accept that parking restrictions are often ignored by drivers stopping for only very limited periods of time. However, I consider that, in addition to the physical works to provide a barrier, amendments to the TRO would be beneficial in supporting its deterrent effect. I am satisfied that such works could be required by a reasonable planning condition following the 'Grampian' principles.
18. I conclude, therefore, that subject to the imposition of such a condition, the proposals would not give rise to any material harm to highway safety or impede the free flow of traffic in

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York Road, and would comply with existing and emerging development plan policies in this respect.

Other Matters

19. I have had regard to the decisions that have been taken by the Council relating to other food and drink uses in the area and to the appeal decisions submitted by both parties in support of their cases. However, I do not consider that these other developments are directly comparable with the appeal site and I have proceeded to determine the appeal on its merits in relation to the terms of the current and emerging local plans.

Conclusion

20. Although I have found that the proposals would not have any adverse impact on highway safety, I consider that the harmful effect on the living conditions of the residents of nearby dwellings should be the determining issue in this case. For the reasons given above, therefore, and having regard to all other matters raised, I conclude that the appeal should not succeed.

Formal Decision

21. I dismiss the appeal.



INSPECTOR

Appeal Decision APP/H0724/A/04/1165129

APPEARANCES

FOR THE APPELLANT:

Mr K Johnson	The appellant
Mr E Jackson MRTPI	Jacksonplan Ltd, 7 Amble Close, Hartlepool, TS26 0EP

FOR THE LOCAL PLANNING AUTHORITY:

Mr J P Ferguson BA(Hons) MA Senior Planning Officer, Hartlepool Borough Council
MRTPI

INTERESTED PERSONS:

Mr C Broadbent	26 Dent Street, Hartlepool, TS26 8AY
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DOCUMENTS

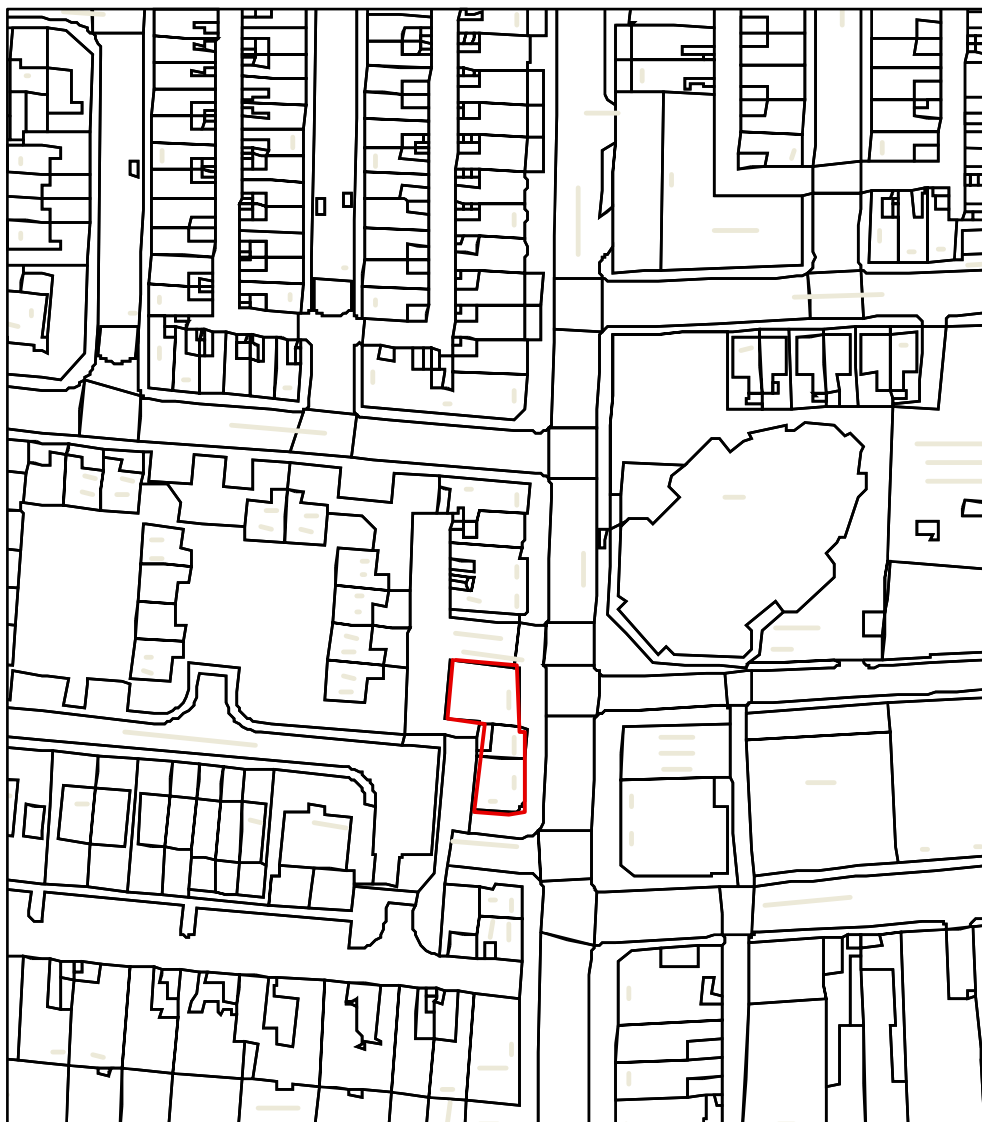
Document	1	List of persons present at the Hearing
Document	2	Press Notice
Document	3	Appendices 1-9 to Mr Jackson's evidence (bound)
Document	4	Appendices 1-6 to Mr Ferguson's evidence (bound)
Document	5	A unilateral planning obligation submitted by the appellant relating to developer contributions
Document	6	A written application from the appellant for a full award for costs

PLANS

Plans	A (1-7)	The application plans
Plan	B	A plan of the locality submitted by Mr Broadbent showing the site in relation to the residential properties nearby



Marco Polo



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 18/06/07
	SCALE 1:1,000	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2007/0335	REV

No: 7
Number: H/2007/0194
Applicant: Mr S Bates LOWER PIERCY FARM DALTON PIERCY
HARTLEPOOL TS27 3HS
Agent: LOWER PIERCY FARM DALTON PIERCY
HARTLEPOOL TS27 3HS
Date valid: 17/04/2007
Development: Siting of residential caravan in connection with existing
livery business
Location: LOWER PIERCY FARM DALTON PIERCY
HARTLEPOOL

The Application and Site

7.1 The application site is situated in a field directly to the south of the village of Dalton Piercy, the building is approximately 300 metres from the closest dwelling. The northern boundary of the application site is formed by a number of existing residential properties. In addition the only access into the site dissects a number of existing residential properties.

7.2 The site is situated outside the village envelope as defined by the adopted Hartlepool Local Plan. In planning terms the proposed development is situated within the open countryside.

7.3 Temporary approval was granted for the siting of a residential caravan for use in conjunction with the existing livery business by the Planning Committee on 30th September 2005 (ref: H/2005/5333). The application was approved for 1 year so that the LPA could keep track on the vitality of the business. This application seeks the renewal of this permission.

7.4 The applicant is applying for the retention of the residential caravan for use in conjunction with the existing livery business for a period of 2 years.

Publicity

7.5 The application has been advertised by way of neighbour letters (8) and a site notice. To date, there have been 4 letters of objection and 3 letters of support.

7.6 The concerns raised are as follows:

1. There are only 4 horses at the site, which does not constitute a commercial livery;
2. Out of two fields one has no grass and is unsuitable for livery;
3. Over the past 12 months the site has not been occupied by a caravan for 4 months as the previous one was destroyed;
4. The stables and 4 horses back onto a residential area;

5. The traffic which currently attends the site is excessive in relation to the number of horses;
6. The site is left unattended most nights;
7. Would adversely affect privacy and amenities
8. The development has brought noise, disturbance and pollution to the surrounding residential area;
9. Access to site is poor and represents a danger to road users and pedestrians
10. Issues surrounding parking provision;
11. The traffic passing the residential properties is detrimental to the residents quality of life;
12. The heavy vehicles could affect the residential properties structurally;
13. If permission is granted additional permissions for structures will prove difficult to resist; and
14. To date the planning permissions which have been granted have been abused and the conditions have not been adhered to;

Copy letters F

7.7 The period for publicity has now expired.

Consultations

7.8 The following consultation replies have been received:

Head of Public Protection & Housing – No objections

Traffic & Transportation Services – No objection

Dalton Piercy Parish Council – Object on grounds that the business is not viable given that there is no obvious evidence of livery at the site. The Parish Council are of the opinion that residential caravan creates an undesirable residential use outside of the village envelope. The Parish Council also considers that late night traffic at the site creates noise and disturbance.

Planning Policy

7.9 The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

GEP1: States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, flood risk, trees, landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

Rur12: States that isolated new dwellings in the countryside will not be permitted unless essential for the efficient functioning of viable agricultural, forestry, or other approved or established uses in the countryside and subject to appropriate siting, design, scale and materials in relation to the functional requirement and the rural environment. Replacement dwellings will only be permitted where existing accommodation no longer meets modern standards and the scale of the development is similar to the original. Infrastructure including sewage disposal must be adequate.

Rur3: States that expansion beyond the village limit will not be permitted.

Planning Considerations

7.10 The main issues in this case are the appropriateness of the proposal in terms of the policies and proposals contained within the Hartlepool Local Plan, the impact the proposal would have on residential amenities, whether there is a functional need for residential presence on site and whether the business has proven to be viable over the past year and a half.

7.11 Planning Policy Statement 7 indicates that permission should only be granted for dwellings and temporary dwellings if they support a new farming activity or relate to a clearly established countryside use. This is backed up by policy Rur12 of the Hartlepool Local Plan which similarly indicates that in general isolated dwellings in the open countryside will not be permitted unless they are essential for the efficient functioning of an approved or established countryside use.

7.12 In granting the previous application (Ref: H/2005/5333) the LPA have accepted that the proposals would not be detrimental to the amenity of the surrounding residential properties, there is a functional need for a residential presence on the site and also that it would be unreasonable for the applicant to be expected to afford a private dwelling within the Dalton Piercy area. The main issue to consider with regards to this application therefore relates to the viability of the business and how the business has progressed since the previous application was approved.

7.13 As part of the submission the applicant has provided a supporting statement, business plan and details of the business accounts for the period April 2006 – January 2007. In addition the applicant has also provided projected accounts based on the current business activity.

7.14 The supporting statement claims that a residential presence on the site is essential for the functioning of the applicants business. The applicant claims that since permission for the temporary dwelling was granted he has seen a big increase in business. He expects that business will grow even further over the next two years and states that without a residential premise the enterprise is unlikely to succeed.

7.15 In summary the supporting information suggests that currently the applicant offers a range of livery services including DIY livery, full livery, grazing livery and schooling livery.

7.16 The Council's Animal Health and Licensing Officer visited the site on 31/5/07 in order to establish the nature of the current business. At the time of inspection it was observed that the enterprise consisted of 5 horses owned by the applicant 2 of which had foals, 3 schooling livery's and a further 2 livery's which were grazing temporarily on land belonging to the applicant's father. The Officer inspected the Horse Passports for all of the horses on the premises and for the 2 horses also on the applicant's father's land. Whilst the officer did not make a note of the names and addresses of the livery's we are assured that they were in local names and addresses and therefore must accept that they are livery's.

7.17 In addition to the Council's inspections 3 letters of support from the applicant's customers have been received. Each of these letters state that they have livery's on the site and that they are happy with the service being received.

7.18 The accounts provided show that for the period April 2006 – January 2007 a total of £22,880 has been taken in gross receipts. The accounts show an expenditure of £7,864 for this same period, which amounts to a profit of £15,016. These accounts have been produced by Acumen Accountancy Services of 353 Stockton Road, Hartlepool and therefore the planning office have no reason to doubt the validity of these. The projected accounts relate to the period March 2007 – February 2008 and suggest that in this period a total of £36,640 in gross receipts will be received. When offset against the projected expenditure (£9,770) the accounts predict a profit of £26,870. The comments of the Chief Finance Officer have however been sought and these are anticipated before the meeting.

7.19 With regards to the neighbour's claims that the business is unviable given that the applicant has proven that a gross profit has been made over the past year, and predicts a profit will be made in the future there is no evidence to suggest that this is the case. The whole purpose of a temporary permission is in effect to enable the applicant to establish this.

7.20 Further checks on the viability of the business and the increased impact of expansion on the amenity of the neighbour's can be assessed on the expiry of two years, however in the meantime the renewal of permission for the siting of a caravan for a period of two years is considered to be acceptable.

RECOMMENDATION – subject to no objections from the chief finance officer
APPROVE subject to the following conditions

1. The occupation of the building shall be limited to a person solely or mainly employed in the business of commercial livery and training stables, currently occupying Lower Piercy Farm together with any resident dependants.
To ensure that the caravan is not used as general residential accommodation
2. On the cessation of the business of commercial livery or on the expiry of two years from the date of this decision, whichever shall first occur, the caravan shall be removed and the residential use shall cease.
To define the nature of the permission
3. Notwithstanding the provisions of Article 3 and schedule 2, Part 1, Classes A-F and Part 2, Class A of the Town and Country Planning (General Permitted

Development) Order 1995, no enlargements, improvements or other alterations of the caravan or hard surfaces within the curtilage, gates, fences, walls or other means of enclosure shall be constructed, erected or carried out on the site.

In the interest of visual amenity

4. The caravan currently located on the site shall remain in its current position and shall not be moved without written agreement from the Local Planning Authority

In the interests of visual amenity

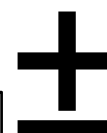
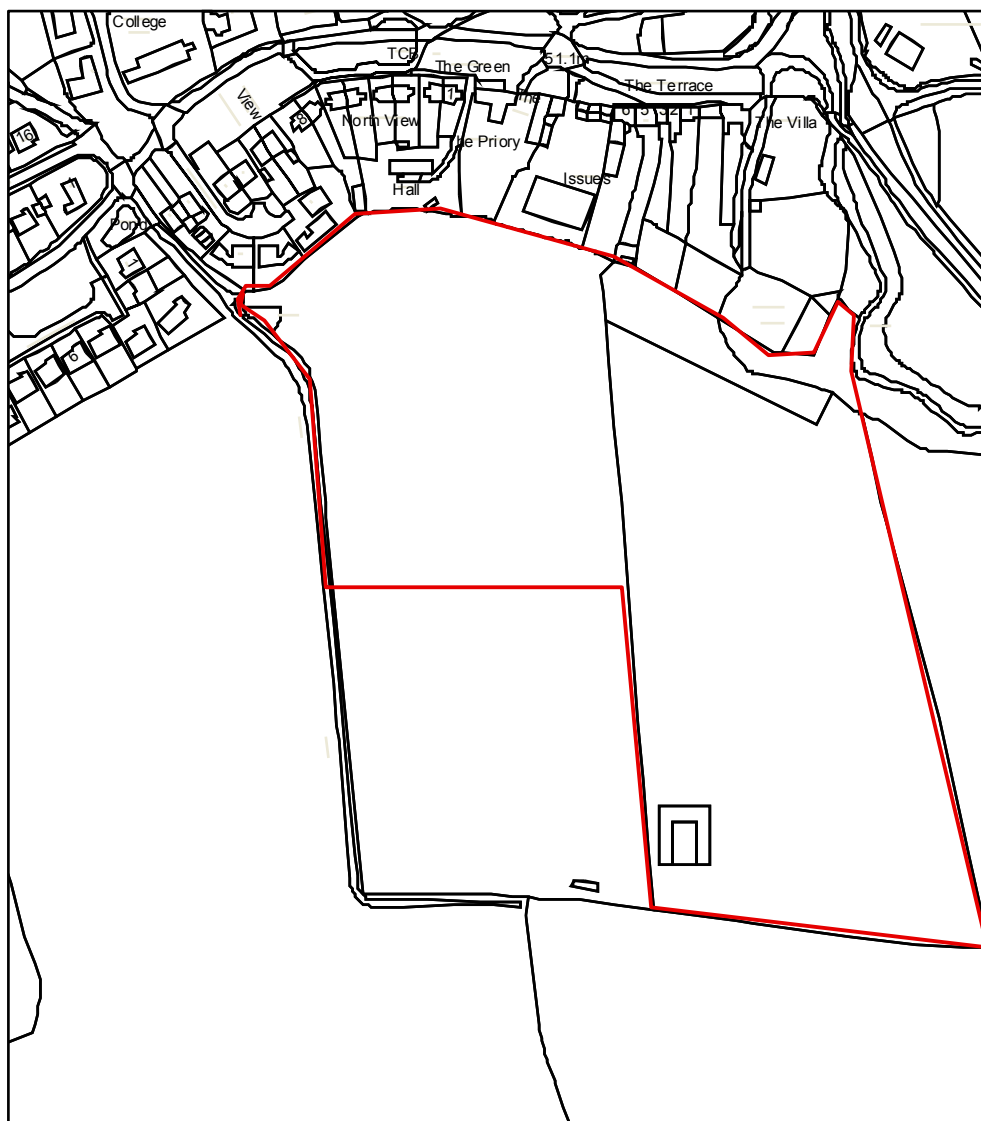
5. The foul drainage from the proposed development shall be discharged to a septic tank and soakaway system which meet the requirements of British Standard BS6297:1983 (septic tank) and the Building Research Establishment Digest Standard 365 (soakaway system). Compliance must be achieved with the following requirements:- (a) there is no connection to any watercourse or land drainage system and no part of the soakaway system is situated within 10m of any ditch or watercourse; (b) porosity tests are carried out to the satisfaction of the Local Planning Authority to demonstrate that suitable subsoil and adequate land area is available for the soakaway (BRE 365 refers)

To prevent pollution of the water environment

6. There shall be no discharge of foul or contaminated drainage from the site into either groundwater or any surface waters, whether direct or via soakaways.

To prevent pollution of the water environment

Lower Piercy Farm



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 23/05/07
	SCALE 1:2500	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2007/0194	REV

No: 8
Number: H/2007/0423
Applicant: Mr Mrs Trebble HART LANE HARTLEPOOL TS26 0UG
Agent: SEAVIEW HOUSE HART LANE HARTLEPOOL TS26 0UG
Date valid: 29/05/2007
Development: Outline application for the erection of a detached dwelling (Amended Description)
Location: SEAVIEW HOUSE HART LANE HARTLEPOOL HARTLEPOOL

The Application and Site

8.1 The application site is within the garden area of Sea View House.

8.2 The site is bounded by residential properties (Siskin Close) to the northeast, landscaping to the south, Sea View House extended garden to the north and the donor property Sea View House and gardens to the west. Access to the site is currently via a private residential drive off Hart Lane.

8.3 The application proposes outline consent for 1 residential property. The applicant wishes to reserve all matters at this stage.

8.4 For information a Lawful Development Certificate was recently issued for the area surrounding the original curtilage of Sea View House for extended garden use based on evidence supplied by the applicant that the land had been used in excess of 10 years as garden. The proposed dwelling itself is within the curtilage of the original house and the garden extends into the wider garden area.

Publicity

8.5 The application has been advertised by way of neighbour letters (7) and a site notice. To date, there have been 2 letters of objection

The concerns raised are:

1. Site is unsuitable for more vehicles
2. The road speed although 40mph is usually much faster
3. Concerns regarding the effect on bats
4. Effect on sunlight to objectors house behind application site, which is at a much lower level
5. Concerns regarding closeness of the site to the rear gardens of Siskin Close and the potential noise on a currently wooded area.
6. Concerns regarding wild bats/squirrels and numerous rare bird species being disturbed and threatened.

Copy Letters D

8.6 The period for publicity expires before the meeting. Should any further representations be received these will be reported accordingly.

Consultations

8.7 The following consultation replies have been received:

Head of Traffic and Transportation – No objection, improvements may be required to improve existing sightlines.

Head of Public Protection – no objection

Engineering Consultants – no objection subject to final details for drainage being conditioned.

Northumbrian Water – no objection

Archaeology – no objection subject to the developer allowing access to archaeology during the excavation works.

Planning Policy

8.8 The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

GEP1: States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings, effects on amenity, highway safety, car parking, infrastructure, flood risk, trees, landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

GEP12: States that the Borough Council will seek within development sites, the retention of existing and the planting of additional, trees and hedgerows. Development may be refused if the loss of, or damage to, trees or hedgerows on or adjoining the site will significantly impact on the local environment and its enjoyment by the public. Tree Preservation Orders may be made where there are existing trees worthy of protection, and planning conditions will be imposed to ensure trees and hedgerows are adequately protected during construction. The Borough Council may prosecute if there is damage or destruction of such protected trees.

GEP3: States that in considering applications, regard will be given to the need for the design and layout to incorporate measures to reduce crime and the fear of crime.

GEP7: States that particularly high standards of design, landscaping and woodland planting to improve the visual environment will be required in respect of developments along this major corridor.

Hsg5: A Plan, Monitor and Manage approach will be used to monitor housing supply. Planning permission will not be granted for proposals that would lead to the strategic housing requirement being significantly exceeded or the recycling targets not being met. The policy sets out the criteria that will be taken into account in considering

applications for housing developments including regeneration benefits, accessibility, range and choice of housing provided and the balance of housing supply and demand. Developer contributions towards demolitions and improvements may be sought.

Hsg9: Sets out the considerations for assessing residential development including design and effect on new and existing development, the provision of private amenity space, casual and formal play and safe and accessible open space, the retention of trees and other features of interest, provision of pedestrian and cycle routes and accessibility to public transport. The policy also provides general guidelines on densities.

Planning Considerations

8.9 The main planning considerations in this instance are the appropriateness of the proposal in terms of the policies and proposals contained within the adopted Hartlepool Local Plan, the impact of the proposals upon neighbouring properties and on the surrounding area in general the effects on wildlife and highway safety considerations.

Local & National Guidance

8.10 In terms of National Planning Policy, PPS3 (Planning Policy Statement) – defines land within the curtilage of dwellings as previously used rather than greenfield though it should be noted that this constitutes guidance and does not provide a definitive statement on the planning status of land. The proposed location of the dwelling is within the curtilage of the existing house; in principle therefore this proposal is in line with policy.

Effect on the neighbouring properties and surrounding area

8.11 The application site backs onto 2 storey residential properties in Siskin Close, there is a difference in levels between the application site and the adjacent properties, the former being at the higher level. The difference in levels is approximately 2.5 – 3 metres from the level of the built properties on Siskin Close up to the application site boundary. The application site has a natural slope from the donor property to the boundary with Siskin Close. There is a sloped planted strip of approximately 5 metres of mature planting comprising mainly evergreens within the application site, which extends along the bounding of the rear gardens of Siskin Close.

8.12 Although there is a difference in levels the relationship between the adjacent properties in Siskin Close and the siting of the proposed dwelling is such that the degree of separation (30 metres) together with the mature planted strip are such that it is considered that a house could be accommodated in a satisfactory manner. It is considered that the new dwelling would not be dominant or have a detrimental affect on the existing dwellings. To ensure that the properties are in keeping with the surrounding housing and the donor property a condition could be imposed restricting the height to 2 storey, and permitted development rights can be removed for

extensions and free standing buildings to ensure the LPA has future control in respect of the interests of the occupiers of the adjacent houses.

8.13 In terms of the effect on the donor property, Sea View House which is within the applicants ownership, has a secondary bedroom window, and ground floor patio doors serving the lounge facing into the application site. These are secondary windows and the applicant has indicated that he is willing to block these up should approval be granted. This can be controlled via condition. It is considered that the final details can ensure that the proposed dwelling would not be overbearing, dominant or visually intrusive to the donor property even though they are within close proximity to one another. Therefore it is considered that the proposed dwelling would not have a detrimental affect on SeaView House.

8.14 In terms of the effect on the immediate area, a young beech tree is situated to the rear of the existing detached garage. It is likely that this would need to be moved to accommodate the new dwelling. The Council's arborist believes the tree could be successfully accommodated elsewhere within the site. The remainder of the trees which are mainly evergreen conifers and located along the northeastern boundary of the site are to be retained and would not be affected by the proposed development.

8.15 It is considered in conclusion that the development would not have a significant detrimental affect on the area in general in terms of visual amenity given that the site is well screened from the closest residential properties and the application site is screened from the main approach from Hart Lane.

Effects on wildlife

8.16 An inspection has been carried out at the application site and the existing detached garage given the objections raising concerns about effect on bats and squirrels in the area. The Council's Ecologist has confirmed that the proposed scheme would not have an adverse affect on bats or squirrels, as it does not involve the removal of any hedges or significant trees. The garage was inspected for its potential to be a bat roost and the Council's Ecologist is satisfied that there is no reasonable likelihood of the proposal effecting bats and therefore a bat survey is not required prior to determination of this application. The applicant is happy to incorporate bat bricks within the proposed dwelling to encourage roosting, given that bats are seen within the area. This can be controlled via condition.

8.17 In relation to concerns relating to disturbance of rare bird species, it should be noted that the Ecologist has no record of any rare bird species within the area however the garage was investigated for roosting birds and no evidence was found. Therefore it is considered that the proposal is unlikely to affect any roosting birds or any rare bird species.

Highways

8.18 The applicant is proposing that the new property will have 2 parking spaces, however final details would be considered on the submission of a reserved matters application, in principle this is considered acceptable.

Highways have stated that vehicles must be able to enter and leave the site in a forward gear in the interest of highway safety; it is considered that there is sufficient room within the application site to accommodate this. The existing entrance may require improvements to improve the existing sightlines in the interest of highway safety. This can also be considered further at a reserved matters stage.

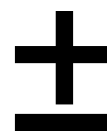
Conclusion

Based on the information above it is considered that the application is acceptable and approval is recommended, subject to conditions.

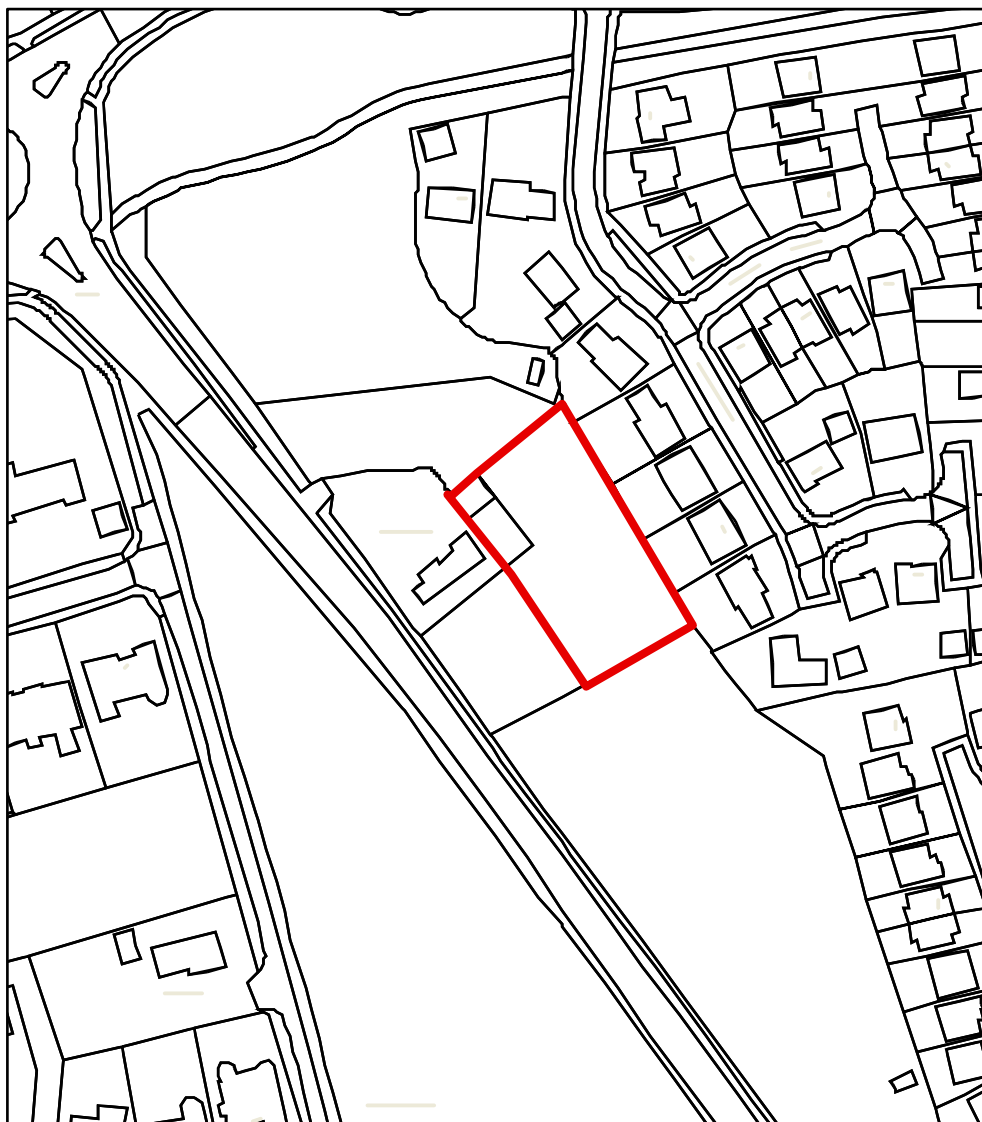
RECOMMENDATION - APPROVE

1. Application for the approval of the reserved matters referred to below must be made not later than the expiration of three years beginning with the date of this permission and the development must be begun not later than whichever is the later of the following dates: (a) the expiration of five years from the date of this permission; or (b) the expiration of two years from the final approval of the reserved matters, or in the case of approval on different dates, the final approval of the last such matter to be approved.
To clarify the period for which the permission is valid
2. Approval of the details of the internal layout, final siting, scale, appearance of the dwelling, parking and access arrangements and landscaping of the site (herein after called the "reserved matters") shall be obtained in writing from the Local Planning Authority.
To clarify the period for which the permission is valid
3. Before the development hereby approved is commenced, the dwelling(s) shall be pegged out on site and its/their exact location agreed in writing by the Local Planning Authority. The developer shall give 24 hours prior notification of his/her intention to peg out the proposed building on the site for an officer site visit to be arranged to check the setting out.
In the interests of the amenities of the occupants of neighbouring properties.
4. Details of all external finishing materials shall be submitted to and approved by the Local Planning Authority before development commences, samples of the desired materials being provided for this purpose.
In the interests of visual amenity.
5. A final scheme for the foul and surface water drainage of the site shall be submitted to and approved in writing by the Local Planning Authority. Thereafter the development shall be carried out in accordance with the approved details, unless otherwise agreed in writing with the Local Planning Authority.
To ensure the site is developed in a satisfactory manner.
6. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any order revoking or re-enacting that Order with or without modification), the dwelling(s) hereby approved shall not be extended in any way without the prior written consent of the Local Planning Authority.
To enable the Local Planning Authority to exercise control in the interests of the amenities of the occupants of the adjacent residential property.

7. Notwithstanding the provisions of the Town and Country Planning (General Permitted Development) Order 1995 (or any other revoking or re-enacting that Order with or without modification), no free standing building(s) shall be erected without the prior written consent of the Local Planning Authority. To enable the Local Planning Authority to exercise control in the interests of the amenities of the occupants of the adjacent residential property.
8. Details of all walls, fences and other means of boundary enclosure shall be submitted to and approved by the Local Planning Authority before the development hereby approved is commenced.
In the interests of visual amenity.
9. The developer shall give two weeks notice in writing of commencement of works to Tees Archaeology, Sir William Gray House, Clarence Road, Hartlepool, TS24 8BT, Tel: (01429) 523458, and shall afford access at all reasonable times to Tees Archaeology and shall allow observation of the excavations and recording of items of interest and finds.
The site is of archaeological interest.
10. Bat bricks shall be incorporated into the house in accordance with details to be first submitted to and agreed in writing by the Local Planning Authority. Thereafter the development shall be implemented in accordance with these details.
In the interests of the protection of bats
11. The dwellinghouse hereby approved shall not exceed two storeys in height. In the interest of the visual amenity of the occupiers of surrounding residential properties.
12. Unless otherwise agreed in writing by the Local Planning Authority the window(s) and door(s) within the northeast gable of the donor property (SeaView House) facing into the application site shall be removed prior to any commencement of works for the construction of the dwelling hereby approved in accordance with details to be first submitted to and approved in writing by the Local Planning Authority.
In the interests of the amenities of the occupants of the proposed dwelling.



Sea View House



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THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

HARTLEPOOL BOROUGH COUNCIL	DRAWN GS	DATE 18/06/07
	SCALE 1:1250	
Department of Regeneration and Planning Bryan Hanson House, Hanson Square, Hartlepool TS24 7BT	DRG.NO H/2007/0423	REV

No: 9
Number: H/2007/0404
Applicant: Mr Mrs Gardner LOYALTY ROAD HARTLEPOOL TS25 5BA
Agent: Building Design Services 52 MOWBRAY ROAD HARTLEPOOL
Date valid: 21/05/2007
Development: Erection of a garage, kitchen, bathroom utility room and bedrooms extension including provision of a rear dormer
Location: 56 LOYALTY ROAD HARTLEPOOL

The Application and Site

9.1 The application is for the erection of a wrap around side and rear extension which incorporates a garage, kitchen, bathroom, utility room and bedroom and includes the provision of a dormer to the rear and velux roof lights to the front.

9.2 The property is located centrally within Loyalty Road which is characterised by a mix of property types. Immediately surrounding 56 the area is characterised mainly by semi-detached bungalows.

Publicity

9.3 The application has been advertised by way of neighbour letters (10). To date, there has been 3 letters of objection

9.4 The concerns raised are as follows:

1. The forming of a dormer bungalow will appear out of keeping with other houses in the area;
2. The extension will effect the privacy of the surrounding properties;
3. The extension will block light from the neighbouring properties

Copy letters G

9.5 The period for publicity has now expired.

Planning Policy

9.6 The following policies in the adopted Hartlepool Local Plan 2006 are relevant to the determination of this application:

GEP1: States that in determining planning applications the Borough Council will have due regard to the provisions of the Development Plan. Development should be located on previously developed land within the limits to development and outside the green wedges. The policy also highlights the wide range of matters which will be taken into account including appearance and relationship with surroundings,

effects on amenity, highway safety, car parking, infrastructure, flood risk, trees, landscape features, wildlife and habitats, the historic environment, and the need for high standards of design and landscaping and native species.

Hsg10: Sets out the criteria for the approval of alterations and extensions to residential properties and states that proposals not in accordance with guidelines will not be approved.

Planning Considerations

9.7 The proposals are a resubmission following the withdrawal of a previous application for a two storey extension to the side of the property.

9.8 It is considered that the main issues in this case are the appropriateness of the proposals in terms of the policies contained within the Hartlepool Local Plan. Policies GEP1 and Hsg10 in particular seek to protect the amenity of the surrounding neighbours both in terms of loss of privacy and amenity. The policies also seek to ensure that applications for planning permission are not detrimental in terms of their physical appearance.

9.9 The main issues to consider are the effect of the proposals on the neighbours at 7-10 Burnaby Close. The proposed extension is inset 1.8m from the boundaries with 7-10 Burnaby Close and as such the proposed gable is located approximately 9.5m away from the rear windows of these properties (the guidelines suggest a separation of 10m is normally required). At present this area is occupied by a single detached garage and wooden canopy.

9.10 The neighbours have expressed concerns that the proposed side extension will block light out of their properties. In this case 7-10 Burnaby Close are located to the south of the applicants property which means that their rear aspects face north. As such owing to the east – west orientation of the sun the proposals are unlikely to cause significant impact on the amount of sunlight entering the neighbours rear garden areas. There are garages on these properties intervening and it is considered that the visual impact of the extension will be diminished by these buildings.

9.11 Concerns with regards to loss of privacy caused by the dormer element of the proposals have also been expressed. Supplementary Note 4 suggests that for new build extensions a separation distance of 20m between primary windows is obtained. With regards to this application a separation distance of 24m between the proposed dormer window and the neighbours at 3 & 4 Burnaby Close to the rear is achieved. In this respect it is considered that the effect of the proposals on the neighbours privacy will not be significant.

9.12 Policies GEP1 and Hsg10 also seek to protect the visual appearance of the street scene. Some of the neighbours have expressed concerns that the dormer element of the proposals is out of keeping within the area. As the dormer window is located to the rear of the property it is considered that views from the street will not be possible. From the front the proposed extension appears in keeping with the original dwelling as it follows the original roof line.

9.13 In conclusion the proposals do not appear out of keeping nor are they likely to significantly impact on the privacy and amenity of the surrounding neighbours. It is considered that save for 0.5m on the separation distances all other aspects of policies GEP1, Hsg10 and Supplementary Note 4 have been met. In the specific circumstances of this case the application is therefore recommended for approval.

RECOMMENDATION - APPROVE

1. The development to which this permission relates shall be begun not later than three years from the date of this permission.
To clarify the period for which the permission is valid
2. The external materials used for this development shall match those of the existing building(s)
In the interests of visual amenity.
3. The window(s) shown on the proposed gable facing 8 and 9 Burnaby Close shall be glazed with obscure glass and shall thereafter be retained at all times while the window(s) exist(s).
To prevent overlooking



56 Loyalty Road



THIS PLAN IS FOR SITE IDENTIFICATION PURPOSE ONLY

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HARTLEPOOL

BOROUGH COUNCIL

Department of Regeneration and planning
Bryan Hanson House, Hanson Square, Hartlepool, TS24 7BT

DRAWN

JT

DATE

SCALE

1:500

DRG.NO

H/2007/0404

REV

No:
Number: H/2007/0333
Applicant: Mrs T Allen Barford Close Hartlepool TS25 2RQ
Agent: 16 Barford Close Hartlepool TS25 2RQ
Date valid: 02/05/2007
Development: Incorporation of public open space land into curtilages of properties for use as domestic gardens
Location: REAR OF 1 and 2 WISBECH CLOSE AND 16-22 EVENS BARFORD CLOSE HARTLEPOOL

UPDATE

1. Discussions are ongoing about crime and anti social behaviour and it is hoped that outstanding information will be available for the meeting.
2. We have been advised by an objector that a petition with 1,000 (one thousand) names against the closure of the footpath was submitted to the portfolio holder in September 2006.

Report of: Assistant Director (Planning and Economic Development)

Subject: UPDATE ON CURRENT COMPLAINTS

1. PURPOSE OF REPORT

- 1.1 Your attention is drawn to the following current ongoing issues, which are being investigated. Developments will be reported to a future meeting if necessary:
1. A neighbour complaint about the alleged erection of a fence at a domestic residence on Broomhill Gardens
 2. An investigation has commenced to check compliance with approved plans at a domestic residence on Westbrooke Avenue.
 3. A complaint about an alleged unauthorised change of use at an agricultural holding within the Borough.
 4. A neighbour complaint about an alleged change of use at a domestic residence on Endeavour Close.
 5. A neighbour complaint about an alleged unauthorised development at a domestic residence on Elwick Road..
 6. A neighbour complaint about an alleged unauthorised extension on Goldfinch Road.
 7. A neighbour complaint about an alleged unauthorised extension on Burn Valley Road.
 8. A neighbour complaint about an alleged unauthorised development within the rear curtilage of a property on Egerton Road.
 9. A neighbour complaint about an alleged unauthorised extension to the rear of a domestic residence on Egerton Road.
 10. A neighbour complaint about an alleged untidy property on Birchill Gardens.
 11. An investigation has commenced following officer concerns that a caravan is in use as a domestic dwelling within the curtilage of an

industrial unit on Tofts Farm Industrial Estate.

12. A neighbour complaint about an alleged unauthorised development to the rear of a property on Carroll Walk.
13. A neighbour complaint about the unauthorised erection of decking on the forecourt of a public house on Balmoral Road.
14. A neighbour complaint about an alleged untidy property on Kesteven Road.
15. A neighbour complaint about an alleged change of use at a domestic property on Birchill Gardens

2. RECOMMENDATION

Members note this report.